Senate Calendar

FRIDAY, APRIL 29, 2016

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UNFINISHED BUSINESS OF THURSDAY, APRIL 28, 2016

Second Reading

Favorable with Proposal of Amendment

H. 571.

An act relating to driver's license suspensions, driving with a suspended license, and DUI penalties.

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

* * * Pre-July 1, 1990 Criminal Traffic Offenses * * *

Sec. 1. TERMINATION OF SUSPENSIONS ARISING FROM PRE-JULY 1, 1990 CRIMINAL TRAFFIC OFFENSES

(a) Background.

(1) Prior to July 1, 1990, traffic offenses that are handled as civil traffic violations under current Vermont law were charged as criminal offenses.

(2) A defendant's failure to appear on such charges resulted in suspension of the defendant's privilege to operate a motor vehicle in Vermont.

(3) As of February 2016, approximately 26,260 defendants who failed to appear in connection with pre-July 1, 1990 criminal traffic charges have pending suspensions as a result of their failure to appear. None of these charges relate to conduct that is criminal under current Vermont law.

(4) Many of the criminal complaints in these matters are fire- and water-damaged. In many of these cases, the facts underlying the complaints no longer can be proved.

(5) On February 22, 2016, the Office of the Attorney General mailed to all Criminal Divisions of the Superior Court and to the Judicial Bureau notices of dismissal of these pre-July 1, 1990 charges.

(b) Termination of suspensions.

(1) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), as soon as possible after this act takes effect, the Commissioner of Motor Vehicles shall, without requiring an application or payment of a fee, terminate pending suspensions of a person's license or privilege to operate a motor vehicle that resulted from the person's failure to appear prior to July 1, 1990 on a criminal traffic offense charged by the State for conduct that is a civil traffic violation under current Vermont law.

(2) This subsection shall not affect pending suspensions of a person's license or privilege to operate other than those specifically described in subdivision (1) of this subsection.

* * * Driver Restoration Program * * *

Sec. 2. DRIVER RESTORATION PROGRAM

(a) Program established; one-time event.

(1) The Judicial Bureau and the Department of Motor Vehicles shall carry out a Driver Restoration Program (Program) from September 1, 2016 through November 30, 2016 (the "Program time period"). It is the intent of the General Assembly that the Program be a one-time event.

(2) As used in this section, "suspension" means a suspension of a person's license or privilege to operate a motor vehicle in Vermont imposed by the Commissioner of Motor Vehicles.

(3) The Program is only targeted at suspensions arising from nonpayment of a traffic violation judgment. Even if a person benefits under the Program from the termination of suspensions arising from nonpayment of traffic violation judgments, other suspensions such as those arising from driving under the influence in violation of 23 V.S.A. chapter 13, subchapter 13 shall remain in effect.

(b) Traffic violation judgments entered before July 1, 2006; exception.

(1) During the Program time period, a person who has not paid in full the amount due on a traffic violation judgment entered prior to July 1, 2006 may apply to the Judicial Bureau for a reduction in the amount due on a form approved by the Court Administrator. Judgments for traffic violations that involve violation of a law specifically governing the operation of commercial motor vehicles shall not be eligible for reduction under the Program. The Program shall not apply to pre-July 1, 1990 criminal traffic offenses.

(2) A person shall be permitted to apply in person or through the mail. The Judicial Bureau may accept applications electronically or by other means.

(3) If a person submits a complete application during the Program time period and the judgment is eligible for reduction under subdivision (1) of this subsection, the Clerk of the Judicial Bureau or designee shall reduce the amount due on the judgment to $30.00. Amounts paid toward a traffic violation judgment prior to the Judicial Bureau's granting an application under this subsection shall not be refunded or credited toward the amount due under the amended judgment.

(c) Consistent with Sec. 5 of this act, amending 4 V.S.A. § 1109 to direct the Judicial Bureau to provide a more flexible payment plan option, a person who has an amount due on a traffic violation judgment shall not be required to pay more than $100.00 per month in order to be current on all of his or her traffic violation judgments, regardless of the dates when the judgments were entered. This subsection shall not be limited by the Program time period.

(d) Restoration of driving privileges.

(1) If a person has paid all traffic violation judgments reduced under subsection (b) of this section, and is under a payment plan for any other outstanding traffic violation judgments, the Judicial Bureau shall notify the Department of Motor Vehicles that the person is in compliance with his or her obligations.

(2) Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), the Commissioner of Motor Vehicles shall:

(A) upon receipt of the notice of compliance from the Judicial Bureau and without requiring an application or payment of a reinstatement fee, terminate suspensions arising from nonpayment of a traffic violation judgment of a person described in subdivision (1) of this subsection (d);

(B) during the Program time period and without requiring an application or payment of a reinstatement fee, terminate suspensions arising from nonpayment of a traffic violation judgment of a person who has paid all outstanding traffic violation judgments in full or is in compliance with a Judicial Bureau payment plan prior to December 1, 2016.

(3) If a person described in subdivision (1) or (2)(B) of this subsection fails to make a payment under a payment plan, the Judicial Bureau shall notify the Department of Motor Vehicles if required under 4 V.S.A. § 1109, as amended by Sec. 5 of this act.

(4) This subsection shall not affect pending suspensions other than as specifically described in this subsection.

(e) Public awareness campaign. Prior to the start of the Program, the Agency of Transportation shall commence a campaign to raise public

awareness of the Program, and shall conduct the campaign until the end of the Program. The Judicial Bureau, the Department of Motor Vehicles, and the Agency of Transportation shall prominently advertise the Program on their websites until the Program ends.

(f) Allocation of amounts collected. Amounts collected on traffic violation judgments reduced under subsection (b) of this section shall be allocated in accordance with the Process Review approved by the Court Administrator's Office entitled "Revenue Distributions - Civil Violations" and dated November 3, 2015.

* * * Termination of Suspensions Repealed in Act * * *

Sec. 3. TERMINATION OF SUSPENSIONS REPEALED IN ACT

Notwithstanding 23 V.S.A. § 675 (fee prior to termination of suspension), as soon as possible after this act takes effect, the Commissioner of Motor Vehicles shall, without requiring an application or payment of a fee, terminate pending suspensions of a person's license or privilege to operate a motor vehicle and refusals of a person's license or privilege to operate that were imposed pursuant to the following provisions:

(1) 7 V.S.A. § 656(g) (underage alcohol violation; failure to pay civil penalty);

(2) 7 V.S.A. § 1005 (underage tobacco violation);

(3) 13 V.S.A. § 1753 (false public alarm; students and minors);

(4) 18 V.S.A. § 4230b(g) (underage marijuana violation; failure to pay civil penalty); and

(5) 32 V.S.A. § 8909 (driver's license suspensions for nonpayment of purchase and use tax).

* * * Amendment or Repeal of License Suspension and Registration Refusal Provisions and Underage Alcohol and Marijuana Crimes * * *

Sec. 4. REPEALS

23 V.S.A. §§ 305a (registration not renewed following nonpayment of traffic violation judgment) and 2307 (remedies for failure to pay traffic violations) are repealed.

Sec. 5. 4 V.S.A. § 1109 is amended to read:

§ 1109. REMEDIES FOR FAILURE TO PAY; CONTEMPT

(a) Definitions. As used in this section:

(1) "Amount due" means all financial assessments contained in a Judicial Bureau judgment, including penalties, fines, surcharges, court costs, and any other assessment authorized by law.

(2) "Designated collection agency" means a collection agency designated by the Court Administrator.

(3) [Repealed.]

(b) Late fees; suspensions for nonpayment of certain traffic violation judgments.

(1) A Judicial Bureau judgment shall provide notice that a $30.00 fee shall be assessed for failure to pay within 30 days. If the defendant fails to pay the amount due within 30 days, the fee shall be added to the judgment amount and deposited in the Court Technology Special Fund established pursuant to section 27 of this title.

(2)(A) In the case of a traffic violation judgment, the judgment shall contain a notice that failure to pay or otherwise satisfy the amount due within 30 days of the notice will result in suspension of the person's operator's license or privilege to operate, and that payment plan options are available. If the defendant fails to pay the amount due within 30 days of the notice, or by a later date as determined by a Judicial Bureau clerk or hearing officer, and the case is not pending on appeal, the Judicial Bureau shall provide electronic notice thereof to the Commissioner of Motor Vehicles. After 20 days from the date of receiving the electronic notice, the Commissioner shall suspend the person's operator's license or privilege to operate for a period of 30 days or until the amount due is satisfied, whichever is earlier.

(B) At minimum, the Judicial Bureau shall offer a payment plan option that allows a person to avoid a suspension of his or her license or privilege to operate by paying no more than $30.00 per traffic violation judgment per month, and not to exceed $100.00 per month if the person has four or more outstanding judgments.

(c)(1) Civil contempt proceedings. If an amount due remains unpaid for 75 days after the Judicial Bureau provides the defendant with a notice of judgment, the Judicial Bureau may initiate civil contempt proceedings pursuant to this subsection.

~~(1)~~(2) Notice of hearing. The Judicial Bureau shall provide notice by first class mail sent to the defendant's last known address that a contempt hearing will be held pursuant to this subsection, and that failure to appear at the contempt hearing may result in the sanctions listed in subdivision ~~(2)~~(3) of this subsection.

~~(2)~~(3) Failure to appear. If the defendant fails to appear at the contempt hearing, the hearing officer may direct the clerk of the Judicial Bureau to do one or more of the following:

(A) ~~Cause~~ cause the matter to be reported to one or more designated collection agencies~~.~~; or

(B) ~~Refer~~ refer the matter to the Criminal Division of the Superior Court for contempt proceedings.

(C) ~~Provide electronic notice thereof to the Commissioner of Motor Vehicles who shall suspend the person's operator's license or privilege to operate. However, the person shall become eligible for reinstatement if the amount due is paid or otherwise satisfied.~~ [Repealed.]

~~(3)~~(4)(A) Hearing. The hearing shall be conducted in a summary manner. The hearing officer shall examine the defendant and any other witnesses and may require the defendant to produce documents relevant to the defendant's ability to pay the amount due. The State or municipality shall not be a party except with the permission of the hearing officer. The defendant may be represented by counsel at the defendant's own expense.

(B) Traffic violations; reduction of amount due. When the judgment is based upon a traffic violation, the hearing officer may reduce the amount due on the basis of the defendant's driving history, ability to pay, or service to the community; the collateral consequences of the violation; or the interests of justice. The hearing officer's decision on a motion to reduce the amount due shall not be subject to review or appeal except in the case of a violation of rights guaranteed under the Vermont or U.S. Constitution.

~~(4)~~(5) Contempt.

(A) The hearing officer may conclude that the defendant is in contempt if the hearing officer states in written findings a factual basis for concluding that:

(i) the defendant knew or reasonably should have known that he or she owed an amount due on a Judicial Bureau judgment;

(ii) the defendant had the ability to pay all or any portion of the amount due; and

(iii) the defendant failed to pay all or any portion of the amount due.

(B) In the contempt order, the hearing officer may do one or more of the following:

(i) Set a date by which the defendant shall pay the amount due.

(ii) Assess an additional penalty not to exceed ten percent of the amount due.

(iii) ~~Order that the Commissioner of Motor Vehicles suspend the person's operator's license or privilege to operate. However, the person shall become eligible for reinstatement if the amount due is paid or otherwise satisfied.~~ [Repealed.]

(iv) Recommend that the Criminal Division of the Superior Court incarcerate the defendant until the amount due is paid. If incarceration is recommended pursuant to this subdivision ~~(4)~~(c)(5), the Judicial Bureau shall notify the Criminal Division of the Superior Court that contempt proceedings should be commenced against the defendant. The Criminal Division of the Superior Court proceedings shall be de novo. If the defendant cannot afford counsel for the contempt proceedings in the Criminal Division of the Superior Court, the Defender General shall assign counsel at the Defender General's expense.

(d) Collections.

(1) If an amount due remains unpaid after the issuance of a notice of judgment, the Court Administrator may authorize the clerk of the Judicial Bureau to refer the matter to a designated collection agency.

(2) The Court Administrator or the Court Administrator's designee is authorized to contract with one or more collection agencies for the purpose of collecting unpaid Judicial Bureau judgments pursuant to 13 V.S.A. § 7171.

(e) For purposes of civil contempt proceedings, venue shall be statewide. No entry or motion fee shall be charged to a defendant who applies for a reduced judgment under subdivision (c)(4)(B) of this section.

(f) Notwithstanding 32 V.S.A. § 502, the Court Administrator is authorized to contract with a third party to collect fines, penalties, and fees by credit card, debit card, charge card, prepaid card, stored value card, and direct bank account withdrawals or transfers, as authorized by 32 V.S.A. § 583, and to add on and collect, or charge against collections, a processing charge in an amount approved by the Court Administrator.

Sec. 6. 7 V.S.A. § 656 is amended to read:

§ 656. PERSON UNDER 21 YEARS OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES; ~~FIRST OR SECOND OFFENSE;~~ CIVIL VIOLATION

(a)(1) Prohibited conduct. A person under 21 years of age shall not:

(A) ~~falsely~~ Falsely represent his or her age for the purpose of procuring or attempting to procure malt or vinous beverages, spirits, or fortified wines from any licensee, State liquor agency, or other person or persons~~;~~.

(B) ~~possess~~ Possess malt or vinous beverages, spirits, or fortified wines for the purpose of consumption by himself or herself or other minors, except in the regular performance of duties as an employee of a licensee licensed to sell alcoholic liquor~~; or~~.

(C) ~~consume~~ Consume malt or vinous beverages, spirits, or fortified wines. A violation of this subdivision may be prosecuted in a jurisdiction where the minor has consumed malt or vinous beverages, spirits, or fortified wines or in a jurisdiction where the indicators of consumption are observed.

(2) Offense. ~~Except as otherwise provided in section 657 of this title, a~~ A person under 21 years of age who knowingly ~~and unlawfully~~ violates subdivision (1) of this subsection commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(A) a civil penalty of $300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a first offense; and

(B) a civil penalty of not more than ~~$600.00~~ $1,200.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 180 days, for a second or subsequent offense.

* * *

(e) Notice to Report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse ~~education~~ assessment or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse ~~education~~ assessment or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the

person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse ~~education~~ assessment or substance abuse counseling, and any other condition related to the offense imposed by the Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

* * *

(g) ~~Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made.~~ [Repealed.]

* * *

Sec. 7. 7 V.S.A. § 657 is amended to read:

§ 657. ~~PERSON UNDER 21 YEARS OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES; THIRD OR SUBSEQUENT OFFENSE~~

~~A person under 21 years of age who engages in conduct in violation of subdivision 656(a)(1) of this title commits a crime if the person has been adjudicated at least twice previously in violation of subdivision 656(a)(1) of this title and shall be imprisoned not more than 30 days or fined not more than $600.00, or both.~~ [Repealed.]

Sec. 8. 13 V.S.A. § 5201(5) is amended to read:

(5) "Serious crime" does not include the following misdemeanor offenses unless the judge at arraignment but before the entry of a plea determines and states on the record that a sentence of imprisonment or a fine over $1,000.00 may be imposed on conviction:

(A) ~~Minors misrepresenting age, procuring or possessing malt or vinous beverages or spirituous liquor (7 V.S.A. § 657(a))~~ [Repealed.]

* * *

Sec. 9. 28 V.S.A. § 205(c) is amended to read:

(c)(1) Unless the Court in its discretion finds that the interests of justice require additional standard and special conditions of probation, when the Court orders a specific term of probation for a qualifying offense, the offender shall

be placed on administrative probation, which means that the only conditions of probation shall be that the probationer:

* * *

(2) As used in this subsection, "qualifying offense" means:

* * *

(M) ~~A first offense of a minor's misrepresenting age, procuring, possessing, or consuming liquors under 7 V.S.A. § 657.~~ [Repealed.]

* * *

Sec. 10. 7 V.S.A. § 1005 is amended to read:

§ 1005. PERSONS UNDER 18 YEARS OF AGE; POSSESSION OF TOBACCO PRODUCTS; MISREPRESENTING AGE OR PURCHASING TOBACCO PRODUCTS; PENALTY

(a) A person under 18 years of age shall not possess, purchase, or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia unless the person is an employee of a holder of a tobacco license and is in possession of tobacco products, tobacco substitutes, or tobacco paraphernalia to effect a sale in the course of employment. A person under 18 years of age shall not misrepresent his or her age to purchase or attempt to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia. A person who possesses tobacco products, tobacco substitutes, or tobacco paraphernalia in violation of this subsection shall be subject to having the tobacco products, tobacco substitutes, or tobacco paraphernalia immediately confiscated and shall be further subject to a civil penalty of $25.00. ~~In the case of failure to pay a penalty, the Judicial Bureau shall mail a notice to the person at the address in the complaint notifying the person that failure to pay the penalty within 60 days of the notice will result in either the suspension of the person's operator's license for a period of not more than 90 days or the delay of the initial licensing of the person for a period of not more than one year. A copy of the notice shall be sent to the Commissioner of Motor Vehicles, who, after expiration of 60 days from the date of notice and unless notified by the Judicial Bureau that the penalty has been paid shall either suspend the person's operator's license or cause initial licensing of the person to be delayed for the periods set forth in this subsection and the rules.~~ An action under this subsection shall be brought in the same manner as a traffic violation pursuant to 23 V.S.A. chapter 24. ~~The Commissioner of Motor Vehicles shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 to implement the provisions of this subsection, which may provide for incremental~~

~~suspension or delays not exceeding cumulatively the maximum periods established by this subsection.~~

(b) A person under 18 years of age who misrepresents his or her age by presenting false identification to purchase tobacco products, tobacco substitutes, or tobacco paraphernalia shall be fined not more than $50.00 or provide up to 10 hours of community service, or both.

Sec. 11. 13 V.S.A. § 1753 is amended to read:

§ 1753. FALSE PUBLIC ALARMS

(a) A person who initiates or willfully circulates or transmits a report or warning of an impending bombing or other offense or catastrophe, knowing that the report or warning is false or baseless and that it is likely to cause evacuation of a building, place of assembly, or facility of public transport, or to cause public inconvenience or alarm, shall, for the first offense, be imprisoned for not more than two years or fined not more than $5,000.00, or both. For the second or subsequent offense, the person shall be imprisoned for not more than five years or fined not more than $10,000.00, or both. In addition, the court may order the person to perform community service. Any community service ordered under this section shall be supervised by the ~~department of corrections~~ Department of Corrections.

(b) ~~In addition, if the person is under 18 years of age, or if the person is enrolled in a public school, an approved or recognized independent school, a home study program, or tutorial program as those terms are defined in section 11 of Title 16:~~

~~(1) if the person has a motor vehicle operator's license issued under chapter 9 of Title 23, the commissioner of motor vehicles shall suspend the license for 180 days for a first offense and two years for a second offense; or~~

~~(2) if the person does not qualify for a license because the person is underage, the commissioner of motor vehicles shall delay the person's eligibility to obtain a drivers license for 180 days for the first offense and two years for the second offense.~~ [Repealed.]

Sec. 12. 18 V.S.A. § 4230a(a)(3) is amended to read:

(a) A person 21 years of age or older who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be assessed a civil penalty as follows:

* * *

(3) ~~not more than~~ $500.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days for a third or subsequent offense.

Sec. 13. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; ~~FIRST OR SECOND OFFENSE;~~ CIVIL VIOLATION

(a) Offense. ~~Except as otherwise provided in section 4230c of this title, a~~ A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of $300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a first offense; and

(2) a civil penalty of not more than ~~$600.00~~ $1,200.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 180 days, for a second or subsequent offense.

* * *

(e) Notice to Report to Diversion. Upon receipt from a law enforcement officer of a summons and complaint completed under this section, the Diversion Program shall send the person a notice to report to the Diversion Program. The notice to report shall provide that:

(1) The person is required to complete all conditions related to the offense imposed by the Diversion Program, including substance abuse screening and, if deemed appropriate following the screening, substance abuse ~~education~~ assessment or substance abuse counseling, or both.

(2) If the person does not satisfactorily complete the substance abuse screening, any required substance abuse ~~education~~ assessment or substance abuse counseling, or any other condition related to the offense imposed by the Diversion Program, the case will be referred to the Judicial Bureau, where the person, if found liable for the violation, shall be assessed a civil penalty, the person's driver's license will be suspended, and the person's automobile insurance rates may increase substantially.

(3) If the person satisfactorily completes the substance abuse screening, any required substance abuse ~~education~~ assessment or substance abuse counseling, and any other condition related to the offense imposed by the

Diversion Program, no penalty shall be imposed and the person's operator's license shall not be suspended.

* * *

(g) ~~Failure to Pay Penalty. If a person fails to pay a penalty imposed under this section by the time ordered, the Judicial Bureau shall notify the Commissioner of Motor Vehicles, who shall suspend the person's operator's license and privilege to operate a motor vehicle until payment is made.~~ [Repealed.]

* * *

Sec. 14. 18 V.S.A. § 4230c is amended to read:

§ 4230c. ~~MARIJUANA POSSESSION BY A PERSON UNDER 21 YEARS OF AGE; THIRD OR SUBSEQUENT OFFENSE; CRIME~~

~~No person shall knowingly and unlawfully possess marijuana. A person under 21 years of age who knowingly and unlawfully possesses one ounce or less of marijuana or five grams or less of hashish commits a crime if the person has been adjudicated at least twice previously in violation of section 4230b of this title and shall be imprisoned not more than 30 days or fined not more than $600.00, or both.~~ [Repealed.]

Sec. 15. 20 V.S.A. § 2358 (b)(2)(B)(i)(XX) is amended to read:

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

Sec. 16. 32 V.S.A. § 8909 is amended to read:

§ 8909. ENFORCEMENT

If the tax due under subsection ~~8903(a), (b) and (d)~~ 8903(d) of this title is not paid as hereinbefore provided the Commissioner shall suspend ~~such purchaser's or~~ the rental company's ~~right to operate a motor vehicle~~ license to act as a rental company and motor vehicle registrations within the State of Vermont until such tax is paid, and such tax may be recovered with costs in an action brought in the name of the State on this statute.

* * * Driving with License Suspended* * *

Sec. 17. 23 V.S.A. § 674 is amended to read:

§ 674. OPERATING AFTER SUSPENSION OR REVOCATION OF LICENSE; PENALTY; REMOVAL OF REGISTRATION PLATES; TOWING

(a)(1) Except as provided in section 676 of this title, a person whose license or privilege to operate a motor vehicle has been suspended or revoked for a violation of this section or subsection 1091(b), 1094(b), or 1128(b) or (c) of this title and who operates or attempts to operate a motor vehicle upon a public highway before the suspension period imposed for the violation has expired shall be imprisoned not more than two years or fined not more than $5,000.00, or both.

(2) A person who violates section 676 of this title for the ~~sixth~~ third or subsequent time shall, if the ~~five~~ two prior offenses occurred within two years of the third offense and on or after ~~July 1, 2003~~ December 1, 2016, be imprisoned not more than two years or fined not more than $5,000.00, or both.

(3) Violations of section 676 of this title that occurred prior to the date a person successfully completes the DLS Diversion Program ~~or prior to the date that a person pays the amount due to the Judicial Bureau in accordance with subsection 2307(b) of this chapter~~ shall not be counted as prior offenses under subdivision (2) of this subsection.

* * *

* * * Operating Without Obtaining a License * * *

Sec. 18. 23 V.S.A. § 601 is amended to read:

§ 601. LICENSE REQUIRED

* * *

(g) A person who violates this section commits a traffic violation, except that a person who violates this section after a previous conviction under this section within the prior two years shall be subject to imprisonment for not more than 60 days or a fine of not more than $5,000.00, or both. An unsworn printout of the person's Vermont motor vehicle conviction history may be admitted into evidence to prove a prior conviction under this section.

* * * Assessment of Points Against a Person's Driving Record * * *

Sec. 19. 23 V.S.A. § 4(44) is amended to read:

(44) "Moving violation" ~~shall mean~~ means any violation of any provision of this title, while the motor vehicle is being operated on a public

highway, over which operation the operator has discretion as to commission of the act, ~~with exception of~~ except for offenses pertaining to:

(A) a parked vehicle, equipment, size, weight, inspection, or registration of the vehicle ~~and child restraint or safety belt systems or~~;

(B) motorcycle headgear under section 1256 of this title; or

(C) seat belts as required in section 1258 or 1259 of this title.

Sec. 20. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

(a) Unless the assessment of points is waived by a Superior judge or a Judicial Bureau hearing officer in the interests of justice and in accordance with subsection 2501(b) of this title, a person operating a motor vehicle shall have points assessed against his or her driving record for convictions for moving violations of the indicated motor vehicle statutes in accord with the following schedule: (All references are to Title 23 of the Vermont Statutes Annotated.)

(1) Two points assessed for:

* * *

(CCC)	~~§ 1256~~.	~~Motorcycle headgear~~ [Repealed.];
(DDD)	§ 1257.	~~Face~~ Eye Protection;

* * *

Sec. 21. 23 V.S.A. § 1257 is amended to read:

§ 1257. ~~FACE~~ EYE PROTECTION

If a motorcycle is not equipped with a windshield or screen, the operator of the motorcycle shall wear either eye glasses, goggles, or a protective face shield when operating the vehicle. The glasses, goggles, or face shield shall have colorless lenses when the motorcycle is being operated during the period of 30 minutes after sunset to 30 minutes before sunrise and at any other time when due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 500 feet ahead.

* * * Judicial Bureau Hearings; Consideration of Ability to Pay * * *

Sec. 22. 4 V.S.A. § 1106 is amended to read:

§ 1106. HEARING

(a) The Bureau shall notify the person charged and the issuing officer of the time and place for the hearing.

(b) The hearing shall be held before a hearing officer and conducted in an impartial manner. The hearing officer may, by subpoena, compel the attendance and testimony of witnesses and the production of books and records. All witnesses shall be sworn. The burden of proof shall be on the State or municipality to prove the allegations by clear and convincing evidence. As used in this section, "clear and convincing evidence" means evidence which establishes that the truth of the facts asserted is highly probable. Certified copies of records supplied by the Department of Motor Vehicles or the Agency of Natural Resources and presented by the issuing officer or other person shall be admissible without testimony by a representative of the Department of Motor Vehicles or the Agency of Natural Resources.

(c) The hearing officer shall make findings which shall be stated on the record or, if more time is needed, made in writing at a later date. The hearing officer may make a finding that the person has committed a lesser included violation. If the hearing officer finds that the defendant committed a violation, the hearing officer shall consider evidence of ability to pay, if offered by the defendant, prior to imposing a penalty.

(d) A law enforcement officer may void or amend a complaint issued by that officer by so marking the complaint and returning it to the Bureau, regardless of whether the amended complaint is a lesser included violation. At the hearing, a law enforcement officer may void or amend a complaint issued by that officer in the discretion of that officer.

(e) A State's Attorney may dismiss or amend a complaint.

(f) The Supreme Court shall establish rules for the conduct of hearings under this chapter.

* * * Awareness of Payment and Hearing Options * * *

Sec. 23. RAISING AWARENESS OF TRAFFIC VIOLATION JUDGMENT PAYMENT AND HEARING OPTIONS

(a) In conducting basic training courses and annual in-service trainings, the Criminal Justice Training Council is encouraged to train enforcement officers about the existence of payment plan options for traffic violation judgments.

Enforcement officers are encouraged to mention these options to a motorist at the time of issuing a complaint for a traffic violation.

(b) The General Assembly recommends that the Judicial Bureau update the standard materials that enforcement officers provide to persons issued a civil complaint for a traffic violation to notify such persons of payment plan options and of the person's right to request a hearing on ability to pay.

(c) The General Assembly encourages the Judicial Bureau to prominently display on its website information about the existence of payment plan options for traffic violation judgments and the right of a person issued a complaint for a traffic violation to request a hearing on ability to pay.

(d) The Agency of Transportation shall carry out a campaign to raise public awareness of traffic violation judgment payment plan options and of a person's right to request a hearing before a Judicial Bureau hearing officer on his or her ability to pay a Judicial Bureau judgment.

* * * Immunity for Forcible Entry of Motor Vehicle for Rescue Purposes * * *

Sec. 24. 12 V.S.A. § 5784 is added to read:

§ 5784. FORCIBLE ENTRY OF MOTOR VEHICLE TO REMOVE UNATTENDED CHILD OR ANIMAL

A person who forcibly enters a motor vehicle for the purpose of removing a child or animal from the motor vehicle shall not be subject to civil liability for damages arising from the forcible entry if the person:

(1) determines the motor vehicle is locked or there is otherwise no reasonable method for the child or animal to exit the vehicle;

(2) reasonably and in good faith believes that forcible entry into the motor vehicle is necessary because the child or animal is in imminent danger of harm;

(3) notifies local law enforcement, fire department, or a 911 operator as soon as practicable under the circumstances;

(4) remains with the child or animal in a safe location reasonably close to the motor vehicle until a law enforcement, fire, or other emergency responder arrives;

(5) places a notice on the vehicle that the authorities have been notified and specifying the location of the child or animal; and

(6) uses no more force to enter the vehicle and remove the child or animal than necessary under the circumstances.

* * * Law Enforcement Training and Data Collection * * *

Sec. 25. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(e)(1) The criteria for all minimum training standards under this section shall include anti-bias training approved by the Vermont Criminal Justice Training Council and training on the State, county, or municipal law enforcement agency's fair and impartial policing policy, adopted pursuant to subsection 2366(a) of this title.

(2) On or before December 31, 2018, law enforcement officers shall receive a minimum of four hours of training as required by this subsection.

(3) In order to remain certified, law enforcement officers shall receive a refresher course on the training required by this subsection during every odd-numbered year in a program approved by the Vermont Criminal Justice Training Council.

Sec. 26. 20 V.S.A. § 2366 is amended to read:

§ 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL POLICING POLICY; RACE DATA COLLECTION

(a)~~(1) Except as provided in subdivision (2) of this subsection, on or before September 1, 2014, every State, local, county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall adopt a fair and impartial policing policy. The policy shall contain substantially the same elements of either the current Vermont State Police fair and impartial policing policy or the most current model policy issued by the Office of the Attorney General.~~

~~(2)~~ On or before January 1, 2016, the Criminal Justice Training Council, in consultation with stakeholders, including the Vermont League of Cities and Towns, the Vermont Human Rights Commission, and Migrant Justice, shall ~~adopt~~ create a model fair and impartial policing policy. On or before July 1, 2016, every State, local, county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall adopt a fair and impartial policing policy that includes, at a minimum, the elements of the Criminal Justice Training Council model policy.

(b) If a law enforcement agency or constable that is required to adopt a policy pursuant to subsection (a) of this section fails to do so on or before

~~September 1, 2014~~ July 1, 2016, that agency or constable shall be deemed to have adopted, and shall follow and enforce, the model policy issued by the ~~Office of the Attorney General~~ Criminal Justice Training Council.

(c) On or before September 15, 2014, and annually thereafter as part of their annual training report to the Council, every State, ~~local,~~ county, and municipal law enforcement agency, and every constable who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of this title, shall report to the Council whether the agency or officer has adopted a fair and impartial policing policy in accordance with subsections (a) and (b) of this section ~~and which policy has been adopted~~. The Criminal Justice Training Council shall determine, as part of the Council's annual certification of training requirements, ~~if~~ whether current officers have received training on fair and impartial policing as required by 20 V.S.A. § 2358(e).

(d) On or before October 15, 2014, and annually thereafter on April 1, the Criminal Justice Training Council shall report to the House and Senate Committees on Judiciary which departments and officers have adopted a fair and impartial policing policy, ~~which policy has been adopted,~~ and whether officers have received training on fair and impartial policing.

(e)(1) On or before September 1, 2014, every State, ~~local,~~ county, and municipal law enforcement agency shall collect roadside stop data consisting of the following:

(A) the age, gender, and race of the driver;

(B) the reason for the stop;

(C) the type of search conducted, if any;

(D) the evidence located, if any; and

(E) the outcome of the stop, including whether:

(i) a written warning was issued;

(ii) a citation for a civil violation was issued;

(iii) a citation or arrest for a misdemeanor or a felony occurred; or

(iv) no subsequent action was taken.

(2) Law enforcement agencies shall work with the Criminal Justice Training Council and a vendor chosen by the Council with the goals of collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.

(3) On or before September 1, 2016 and annually thereafter, law enforcement agencies shall provide the data collected under this subsection to the vendor chosen by the Criminal Justice Training Council under subdivision (2) of this subsection or, in the event the vendor is unable to continue receiving data under this section, to the Council. Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the receiving entity.

(4) The data provided pursuant to subdivision (3) of this subsection shall be posted electronically in a manner that is analyzable and accessible to the public on the receiving agency's website.

Sec. 27. TRAINING FOR LAW ENFORCEMENT; IMPAIRED DRIVING

(a) It is imperative that Vermont provide adequate training to both local and State law enforcement officers regarding the detection of impaired driving. Advanced Roadside Impaired Driving Enforcement (ARIDE) training provides instruction to officers at a level above Basic Standardized Sobriety Testing and proves helpful to an officer in determining when a Drug Recognition Expert (DRE) should be called. Vermont should endeavor to train as many law enforcement officers as possible in ARIDE. DREs receive a more advanced training in the detection of drugged driving and should be an available statewide resource for officers in the field.

(b) The Secretary of Transportation and the Commissioner of Public Safety shall work collaboratively to:

(1) ensure that funding is available, either through the Governor's Highway Safety Program's administration of National Highway Traffic Safety Administration funds or other State funding sources, for training the number of officers necessary to provide sufficient statewide coverage for enforcement efforts to address impaired driving; and

(2) collect data regarding the number and geographic distribution of law enforcement officers who receive ARIDE and DRE training.

* * * Motor Vehicle Insurance and Credit History * * *

Sec. 28. 8 V.S.A. § 4203(7) is added to read:

(7) An insurer engaged in writing private passenger motor vehicle insurance in Vermont shall not consider an applicant's or an insured's credit information, including a numerical credit-based insurance score or other credit rating, in connection with underwriting such insurance. This subdivision shall not be construed to limit an insurer from obtaining or using its own payment history information or information contained in an insurance claims history

report, a motor vehicle driver history report, or any other report from a motor vehicle registry when underwriting motor vehicle insurance.

* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES

(a) This section, Sec. 1 (termination of suspensions arising from pre-1990 failures to appear on criminal traffic offense charges), Sec. 2(e) (public awareness campaign), Sec. 3 (termination of suspensions repealed in act), and Secs. 4–16 (amendment or repeal of license suspension and registration refusal provisions and underage alcohol and marijuana crimes) shall take effect on passage.

(b) Secs. 25-26 (related to law enforcement training and data collection) shall take effect on passage, except that in Sec. 25, 20 V.S.A. § 2358(e)(3) shall take effect on January 1, 2019.

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

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

An act relating to driver's license suspensions and judicial, criminal justice, and insurance topics

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 15, 2016, page 383-408)

Reported favorably by Senator Lyons for the Committee on Finance.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Judiciary.

(Committee vote: 6-0-1)

Reported favorably by Senator Sears for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Judiciary.

(Committee vote: 6-0-1)

Amendments to proposal of amendment of the Committee on Judiciary to H. 571 to be offered by Senator Cummings

Senator Cummings moves to amend the proposal of amendment of the Committee on Judiciary as follows:

First: By striking out Sec. 28 and the reader assistance thereto in their entirety and inserting in lieu thereof the following:

* * * Study; Credit-Based Motor Vehicle Insurance Scoring * * *

Sec. 28. STUDY OF CREDIT REPORTS AND MOTOR VEHICLE INSURANCE RATES

The Commissioner of Financial Regulation shall conduct a study of credit-based insurance scoring for motor vehicle insurance. The study shall make findings regarding the prevalence of use of credit-based insurance scoring and related rating factors in Vermont's market for motor vehicle insurance, its impact on Vermont motor vehicle insurance consumers, and how limitations on the use of such scoring would affect insurance companies doing business in Vermont and the affordability and availability of motor vehicle insurance. The Commissioner shall report his or her findings and recommendations to the General Assembly on or before December 15, 2016.

Second: In Sec. 29 (effective dates), by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) This section, Sec. 1 (termination of suspensions arising from pre-1990 failures to appear on criminal traffic offense charges), Sec. 2(e) (public awareness campaign), Sec. 3 (termination of suspensions repealed in act), Secs. 4–16 (amendment or repeal of license suspension and registration refusal provisions and underage alcohol and marijuana crimes), and Sec. 28 (study of credit reports and motor vehicle insurance rates) shall take effect on passage.

NEW BUSINESS

Third Reading

H. 65.

An act relating to designating the Gilfeather turnip as the State Vegetable.

H. 308.

An act relating to limiting the liability of VAST arising from snowmobile operation outside the Statewide Snowmobile Trail System.

H. 876.

An act relating to the transportation capital program and miscellaneous changes to transportation-related law.

H. 878.

An act relating to capital construction and State bonding budget adjustment.

Proposal of amendment to H. 878 to be offered by Senator Flory before Third Reading

Senator Flory moves to amend the Senate proposal of amendment as follows:

First: In Sec. 8, amending 2015 Acts and Resolves No. 26, Sec. 10, in subdivision (b)(3), by striking out the words "engineering technology" and inserting in lieu thereof the word science and in subsection (d), in the first sentence, by striking out the words "engineering technology" and inserting in lieu thereof the word science

Second: By striking out Sec. 31 in its entirety and inserting in lieu thereof a new Sec. 31 to read as follows:

Sec. 31. 4 V.S.A. § 38 is added to read:

§ 38. CAPITAL BUDGET REQUESTS; COUNTY COURTHOUSES

(a) On or before October 1 each year, any county requesting capital funds for its courthouse, or court operations, shall submit a request to the Court Administrator.

(b) The Court Administrator shall evaluate requests based on the following criteria:

(1) whether the funding request relates to an emergency that will affect the court operations and the administration of justice;

(2) whether there is a State-owned courthouse in the county that could absorb court activities in lieu of this capital investment;

(3) whether the county consistently has invested in major maintenance in the courthouse;

(4) whether the request relates to a State-mandated function;

(5) whether the request diverts resources of other current Judiciary capital priorities;

(6) whether the request is consistent with the long-term capital needs of the Judiciary, including providing court services adapted to modern needs and requirements; and

(7) any other criteria as deemed appropriate by the Court Administrator.

(c) Based on the criteria described in subsection (b) of this section, the Court Administrator shall make a recommendation to the Commissioner of Buildings and General Services regarding whether the county's request should

be included as part of the Judiciary's request for capital funding in the Governor's annual proposed capital budget request.

(d) On or before January 15 of each year, the Court Administrator shall advise the House Committee on Corrections and Institutions and the Senate Committee on Institutions of all county requests received and the Court Administrator's recommendations for the proposed capital budget request.

Third: In Sec. 32, in the section heading, by striking out the following: "; Bennington" and in subsection (1) at the end of the first sentence, by striking out the following: "in Bennington"

Second Reading

Favorable

H. 863.

An act relating to making miscellaneous amendments to Vermont's retirement laws.

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

(Committee vote: 5-0-0)

(No House amendments)

Favorable with Proposal of Amendment

H. 518.

An act relating to the membership of the Clean Water Fund Board.

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

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

Sec. 1. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER FUND BOARD

(a) Creation. There is created a Clean Water Fund Board which shall recommend to the Secretary of Administration expenditures from the Clean Water Fund. The Clean Water Fund Board shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Fund Board shall be composed of:

(1) ~~the~~ The Secretary of Administration or designee~~;~~.

(2) ~~the~~ The Secretary of Natural Resources or designee~~;~~.

(3) ~~the~~ The Secretary of Agriculture, Food and Markets or designee~~;~~.

(4) ~~the~~ The Secretary of Commerce and Community Development or designee~~; and~~.

(5) ~~the~~ The Secretary of Transportation or designee.

(6) Two members of the public or of the House of Representatives appointed by the Speaker of the House, each of whom shall be from a separate major watershed of the State. One of the members appointed under this subdivision shall be a municipal official.

(7) Two members of the public or of the Senate appointed by the Committee on Committees, each of whom shall be from a separate major watershed of the State. One of the members appointed under this subdivision shall be a municipal official.

(c) Terms; public members. Members of the Clean Water Fund Board shall be appointed for terms of three years, except initially, appointments shall be made such that one member appointed by the Speaker shall be appointed for a term of two years, and one member appointed by the Committee on Committees shall be appointed for a term of one year. Vacancies on the Board shall be filled for the remaining period of the term in the same manner as initial appointments.

(d) Officers; committees; rules; reimbursement.

(1) The Clean Water Fund Board shall annually elect a chair from its members. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(2) Members of the Board who are not employees of the State of Vermont, who are not legislators, 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 paid from the budget of the Agency of Administration for attendance of meetings of the Board. Legislative members of the Board shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406.

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 17, 2016, page 494)

Reported favorably by Senator Nitka for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources and Energy.

(Committee vote: 6-0-1)

H. 620.

An act relating to health insurance and Medicaid coverage for contraceptives.

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

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

First: By adding a new section to be Sec. 4 to read as follows:

Sec. 4. 33 V.S.A. § 1811(l) is added to read:

(l) To the extent permitted under federal law, a registered carrier shall allow for the enrollment of a pregnant individual, and of any individual who is eligible for coverage under the terms of the health benefit plan because of a relationship to the pregnant individual, at any time after the commencement of the pregnancy. Coverage shall be effective as of the first of the month following the individual's selection of a health benefit plan.

And by renumbering the existing Sec. 4, effective dates, to be Sec. 5

Second: In the newly renumbered Sec. 5, effective dates, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) Secs. 3 (appropriation), 4 (Exchange special enrollment period for pregnancy), and this section shall take effect on July 1, 2016.

(Committee vote: 7-0-0)

(For House amendments, see House Journal for March 23, 2016, pages 619-622)

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

The Committee recommends that the bill be amended as recommended by the Committee on Finance with the following amendment thereto:

In the first instance in Sec. 4, 33 V.S.A. § 1811(l), at the beginning of the first sentence, by striking out "To the extent permitted under federal law, a" and inserting in lieu thereof the word A

(Committee vote: 6-0-1)

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)

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

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

In Sec. 3(a), by striking the second sentence and inserting in lieu thereof the following:

The study shall evaluate the feasibility of implementing various models of funding for special education in Vermont, including the census block model of funding and variations of this model, as the contractor deems appropriate, including the advantages, disadvantages, and policy considerations.

(Committee vote: 4-0-3)

H. 868.

An act relating to miscellaneous economic development provisions.

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

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

* * * Vermont Economic Development Authority * * *

Sec. A.1. 10 V.S.A. § 213 is amended to read:

§ 213. AUTHORITY; ORGANIZATION

(a) The Vermont Economic Development Authority is hereby created and established as a body corporate and politic and a public instrumentality of the State. The exercise by the Authority of the powers conferred upon it in this chapter constitutes the performance of essential governmental functions.

(b)(1) The Authority shall have ~~15~~ up to 16 voting members consisting of:

(A) the Secretary of Commerce and Community Development, the State Treasurer, the Secretary of Agriculture, Food and Markets, the Commissioner of Forests, Parks and Recreation, and the Commissioner of Public Service, each of whom shall serve as an ex officio member, or a designee of any of the aforementioned; ~~and~~

(B) up to 10 members, who shall be residents of the State of Vermont, appointed by the Governor with the advice and consent of the Senate~~. The appointed members shall be appointed~~ for terms of six years and until their successors are appointed and qualified~~. Appointed members may be removed by the Governor for cause and the Governor may fill any vacancy occurring among the appointed members for the balance of the unexpired term.~~; and

(C) one member, who is a current member of the Vermont General Assembly, appointed jointly by the Speaker of the House of Representatives and the President Pro Tempore of the Senate, who shall serve a term of six

years or until he or she is no longer a member of the General Assembly, whichever occurs sooner.

(2)(A) An appointing authority may remove a member for cause.

(B) The Governor may fill a vacancy for the balance of the unexpired term.

(C) The Speaker and President Pro Tempore may jointly fill a vacancy by appointing a member of the General Assembly to a new six-year term.

* * *

Sec. A.2. 10 V.S.A. § 216 is amended to read:

§ 216. AUTHORITY; GENERAL POWERS

The Authority is hereby authorized:

* * *

(15) To delegate to loan officers the power to review, approve, and make loans under this chapter, subject to the approval of the manager, and to disburse funds on such loans, subject to the approval of the manager~~, provided that such loans do not exceed $350,000.00 in aggregate amount for any industrial loan for any three-year period for any particular individual, partnership, corporation, or other entity or related entity, or do not exceed $350,000.00 in aggregate amount if the loan is guaranteed by the Farm Services Agency, or its successor agency, or $300,000.00 in aggregate amount if the loan is not guaranteed by the Farm Services Agency, or its successor agency, for any agricultural loan for any three-year period for any particular individual, partnership, corporation, or other entity or related entity. No funds may be disbursed for any loan approved under this provision, except for any agricultural loan referenced above in an amount not to exceed $50,000.00, and no rejection of a loan by a loan officer pursuant to this subdivision shall become final, until three working days after the members of the Authority are notified by facsimile, electronic mail, or overnight delivery mailed or sent on the day of approval or rejection, of the intention to approve or reject such loan. If any member objects within that three-day period, the approval or rejection will be held for reconsideration by the members of the Authority at its next duly scheduled meeting~~.

* * *

Sec. A.3. 10 V.S.A. § 219 is amended to read:

§ 219. RESERVE FUNDS

* * *

(d) In order to ensure the maintenance of the debt service reserve requirement in each debt service reserve fund established by the Authority, there may be appropriated annually and paid to the Authority for deposit in each such fund, such sum as shall be certified by the Chair of the Authority, to the Governor, the President of the Senate, and the Speaker of the House, as is necessary to restore each such debt service reserve fund to an amount equal to the debt service reserve requirement for such fund. The Chair shall annually, on or about February 1, make, execute, and deliver to the Governor, the President of the Senate, and the Speaker of the House, a certificate stating the sum required to restore each such debt service reserve fund to the amount aforesaid, and the sum so certified may be appropriated, and if appropriated, shall be paid to the Authority during the then current State fiscal year. The principal amount of bonds or notes outstanding at any one time and secured in whole or in part by a debt service reserve fund to which State funds may be appropriated pursuant to this subsection shall not exceed ~~$130,000,000.00~~ $155,000,000.00, provided that the foregoing shall not impair the obligation of any contract or contracts entered into by the Authority in contravention of the Constitution of the United States.

Sec. A.4. 10 V.S.A. § 220 is added to read:

§ 220. TRANSFER FROM INDEMNIFICATION FUND

The State Treasurer shall transfer from the Indemnification Fund created in former section 222a of this title to the Authority all current and future amounts deposited to that Fund.

Sec. A.5. 10 V.S.A. § 234 is amended to read:

§ 234. THE VERMONT JOBS FUND

* * *

(c) Monies in the Fund may be loaned to the Vermont Agricultural Credit Program to support its lending operations as established in chapter 16A of this title at interest rates and on terms and conditions to be set by the Authority ~~to establish a line of credit in an amount not to exceed $60,000,000.00 to be advanced to the Vermont Agricultural Credit Program to support its lending operations as established in chapter 16A of this title~~.

* * *

Sec. A.6. 10 V.S.A. chapter 16A is amended to read:

CHAPTER 16A. VERMONT AGRICULTURAL CREDIT PROGRAM

§ 374a. CREATION OF THE VERMONT AGRICULTURAL CREDIT PROGRAM

(a) There is created the Vermont Agricultural Credit Program, which will provide an alternative source of sound and constructive credit to farmers and forest products businesses who are not having their credit needs fully met by conventional agricultural credit sources at reasonable rates and terms. The Program is intended to meet, either in whole or in part, the credit needs of eligible agricultural facilities and farm operations in fulfillment of one or more of the purposes listed in this subsection by making direct loans and participating in loans made by other agricultural credit providers:

* * *

(b) ~~No borrower shall be approved for a loan from the corporation that would result in the aggregate principal balances outstanding of all loans to that borrower exceeding the then-current maximum Farm Service Agency loan guarantee limits, or $2,000,000.00, whichever is greater.~~ [Repealed.]

§ 374b. DEFINITIONS

As used in this chapter:

(1) "Agricultural facility" means land and rights in land, buildings, structures, machinery, and equipment which is used for, or will be used for producing, processing, preparing, packaging, storing, distributing, marketing, or transporting agricultural or forest products which have been primarily produced in this State, and working capital reasonably required to operate an agricultural facility.

(2) "Agricultural land" means real estate capable of supporting commercial farming or forestry, or both.

(3) "Agricultural products" mean crops, livestock, forest products, and other farm or forest commodities produced as a result of farming or forestry activities.

(4) "Farm ownership loan" means a loan to acquire or enlarge a farm or agricultural facility, to make capital improvements including construction, purchase, and improvement of farm and agricultural facility buildings that can be made fixtures to the real estate, to promote soil and water conservation and protection, and to refinance indebtedness incurred for farm ownership or operating loan purposes, or both.

(5) "Authority" means the Vermont Economic Development Authority.

(6) "Cash flow" means, on an annual basis, all income, receipts, and revenues of the applicant or borrower from all sources and all expenses of the applicant or borrower, including all debt service and other expenses.

(7) "Farmer" means an individual directly engaged in the management or operation of an agricultural facility or farm operation for whom the agricultural facility or farm operation constitutes two or more of the following:

(A) is or is expected to become a significant source of the farmer's income;

(B) the majority of the farmer's assets; and

(C) an occupation in which the farmer is actively engaged, either on a seasonal or year-round basis.

(8) "Farm operation" shall mean the cultivation of land or other uses of land for the production of food, fiber, horticultural, silvicultural, orchard, maple syrup, Christmas trees, forest products, or forest crops; the raising, boarding, and training of equines, and the raising of livestock; or any combination of the foregoing activities. Farm operation also includes the storage, preparation, retail sale, and transportation of agricultural or forest commodities accessory to the cultivation or use of such land.

(9) "Forest products business" means a Vermont enterprise that is primarily engaged in managing, harvesting, trucking, processing, manufacturing, crafting, or distributing products derived from Vermont forests.

(10) "Livestock" shall mean cattle, sheep, goats, equines, fallow deer, red deer, reindeer, American bison, swine, poultry, pheasant, chukar partridge, coturnix quail, ferrets, camelids and ratites, cultured trout propagated by commercial trout farms, and bees.

~~(10)~~(11) "Loan" means an operating loan or farm ownership loan, including a financing lease, provided that such lease transfers the ownership of the leased property to each lessee following the payment of all required lease payments as specified in each lease agreement.

~~(11)~~(12) "Operating loan" means a loan to purchase livestock, farm or forestry equipment, or fixtures to pay annual operating expenses of a farm operation or agricultural facility, to pay loan closing costs, and to refinance indebtedness incurred for farm ownership or operating loan purposes, or both.

~~(12)~~(13) "Program" means the Vermont Agricultural Credit Program established by this chapter.

~~(13)~~(14) "Project" or "agricultural project" means the creation, establishment, acquisition, construction, expansion, improvement, strengthening, reclamation, operation, or renovation of an agricultural facility or farm operation.

~~(14)~~(15) "Resident" means a person who is or will be domiciled in this State as evidenced by an intent to maintain a principal dwelling place in the State indefinitely and to return there if temporarily absent, coupled with an act or acts consistent with that intent, including the filing of a Vermont income tax return within 18 months of the application for a loan under this chapter. In the case of a limited liability company, partnership, corporation, or other business entity, resident means a business entity formed under the laws of Vermont, the majority of which is owned and operated by Vermont residents who are natural persons.

* * *

§ 374h. LOAN ELIGIBILITY STANDARDS

A farmer, or a limited liability company, partnership, corporation, or other business entity the majority ownership of which is vested in one or more farmers, shall be eligible to apply for a farm ownership or operating loan, provided the applicant is:

* * *

(4) an operator or proposed operator of an agricultural facility, ~~or~~ farm operation, or forest products business for whom the loan reduces investment costs to an extent that offers the applicant a reasonable chance to succeed in the operation and management of an agricultural facility or farm operation;

* * *

(7) able to demonstrate that the applicant is responsible and able to manage responsibilities as owner or operator of the farm operation, ~~or~~ agricultural facility, or forest products business;

* * *

(13) able to demonstrate that the proposed loan will be adequately secured by a mortgage on real property ~~with a satisfactory maturity date in no event later than 20 years from the date of inception of the mortgage,~~ or by a security agreement on personal property ~~with a satisfactory maturity date in no event longer than the average remaining useful life of the assets in which the security interest is being taken~~; and

* * *

Sec. A.7. REPEALS

(a) 2009 Acts and Resolves No. 54, Sec. 112(b), pledging up to $1,000,000.00 of the full faith and credit of the State for loss reserves for the Vermont Economic Development Authority small business loan program and TECH loan program, is repealed.

(b) In 10 V.S.A. chapter 12 (Vermont Economic Development Authority) the following are repealed:

(1) subchapter 2, §§ 221–229 (Mortgage Insurance); and

(2) subchapter 8, §§ 279–279b (Vermont Financial Access Program).

* * * Cooperatives; Electronic Voting * * *

Sec. B.1. 11 V.S.A. § 995 is amended to read:

§ 995. ARTICLES

Each association formed under this subchapter shall prepare and file articles of incorporation setting forth:

(1) The name of the association~~;~~.

(2) The purpose for which it is formed~~;~~.

(3) The place where its principal business will be transacted~~;~~.

(4) The names and addresses of the directors thereof who are to serve until the election and qualification of their successors~~;~~.

(5) The name and residence of the clerk~~;~~.

(6) When organized without capital stock, whether the property rights and interest of the members are equal, and, if unequal, the general rules applicable to all members by which the property rights and interest, respectively, of each member shall be determined and fixed, and provision for the admission of new members who shall be entitled to share in the property of the association in accordance with such general rules. This provision or paragraph of the certificate of organization shall not be altered, amended, or replaced except by the written consent or vote representing three-fourths of the members~~;~~.

(7) When organized with capital stock, the amount of such stock, the number of shares into which it is divided, and the par value thereof~~;~~.

(8) The capital stock may be divided into preferred and one or more classes of common stock. When so divided, the certificate of organization shall contain a statement of the number of shares of stock to which preference is granted, the number of shares of stock to which no preference is granted, and the nature and definite extent of the preference and privileges granted to each~~;~~.

(9) The articles of incorporation of any association organized under this subchapter ~~shall~~ may provide that the members or stockholders thereof shall have the right to vote in person ~~or alternate only and not by proxy or otherwise~~ or through another method of communication, including through a

telecommunications or electronic medium, but a member or stockholder may not vote by proxy. This provision or paragraph of the articles of association shall not be altered and shall not be subject to amendment~~;~~.

(10) In addition to the foregoing, the articles of incorporation of any association incorporated hereunder may contain any provision consistent with law with respect to management, regulation, government, financing, indebtedness, membership, the establishment of voting districts and the election of delegates for representative purposes, the issuance, retirement, and transfer of its stock, if formed with capital stock, or any provisions relative to the way or manner in which it shall operate or with respect to its members, officers, or directors and any other provisions relating to its affairs~~;~~.

(11) The certificate shall be subscribed by the incorporators and shall be sworn to by one or more of them; and shall be filed with the ~~secretary of state~~ Secretary of State. A certified copy shall also be filed with the ~~secretary of agriculture, food and markets;~~ Secretary of Agriculture, Food and Markets.

(12) When so filed, the certificate of organization or a certified copy thereof shall be received in the courts of this ~~state~~ State as prima facie evidence of the facts contained therein and of the due incorporation of such association.

* * * Regional Planning and Economic Development * * *

Sec. C.1. 24 V.S.A. chapter 76 is amended to read:

CHAPTER 76. ECONOMIC DEVELOPMENT PERFORMANCE ~~CONTRACTS~~ GRANTS

* * *

§ 2782. PROPOSALS FOR PERFORMANCE ~~CONTRACTS~~ GRANTS FOR ECONOMIC DEVELOPMENT

(a) The Secretary shall ~~annually award~~ negotiate and issue performance ~~contracts~~ grants to qualified regional development corporations, regional planning commissions, or both in the case of a joint proposal, to provide economic development services under this chapter.

(b) A proposal shall be submitted in response to a request for proposals issued by the Secretary.

(c) The Secretary may require that a service provider submit with a proposal, or subsequent to the filing of a proposal, additional supportive data or information that he or she considers necessary to make a decision to award or to assess the effectiveness of a performance ~~contract~~ grant.

§ 2783. ELIGIBILITY FOR PERFORMANCE ~~CONTRACTS~~ GRANTS

Upon receipt of a proposal for a performance ~~contract~~ grant, the Secretary shall within 60 days determine whether or not the service provider may be awarded a performance ~~contract~~ grant under this chapter. The Secretary shall enter into a performance ~~contract~~ grant with a service provider if the Secretary finds:

(1) the service provider serves an economic region generally consistent with one or more of the State's regional planning commission regions;

(2) the service provider demonstrates the ability and willingness to provide planning and resource development services to local communities and to assist communities in evaluating economic conditions and prepare for economic growth and stability;

(3) the service provider demonstrates an ability to gather economic and demographic information concerning the area served;

(4) the service provider has, or demonstrates it will be able to secure, letters of support from the legislative bodies of the affected municipalities;

(5) the service provider demonstrates a capability and willingness to assist existing business and industry, to encourage the development and growth of small business, and to attract industry and commerce;

(6) the service provider appears to be the best qualified service provider from the region to accomplish and promote economic development;

(7) the service provider needs the performance ~~contract award~~ grant and that the performance ~~contract award~~ grant will be used for the employment of professional persons or expenses consistent with performance ~~contract~~ grant provisions, or both;

(8) the service provider presents an operating budget and has adequate funds available to match the performance ~~contract award~~ grant;

(9) the service provider demonstrates a willingness to involve the public of the region in its policy-making process by offering membership to representatives of all municipalities in the economic region which shall elect the directors of the governing board;

(10) the service provider demonstrates a willingness to coordinate its activities with the planning functions of any regional planning commission located in the same geographic area as the service provider.

§ 2784. TERMS OF PERFORMANCE ~~CONTRACTS~~ GRANTS

(a)(1) Funds available ~~under~~ through a performance ~~contract~~ grant may only be used by an applicant to perform the duties or provide the services ~~set forth~~ specified in the performance ~~contract~~ grant.

(2) The amount and terms of the performance ~~contract award~~ grant shall be determined by the ~~parties to the contract~~ Secretary.

(b) A performance ~~contract~~ grant shall be made for a period ~~agreed to by the parties~~ specified by the grant.

(c) Payments to a service provider shall be made pursuant to the terms of the performance ~~contract~~ grant.

§ 2784a. PLANS

A service provider awarded a performance ~~contract~~ grant under this chapter shall conduct its activities under subdivision 2784(a)(1) of this title consistent with local and regional plans.

* * *

§ 2786. APPLICABILITY OF STATE LAWS

(a) A service provider awarded a performance ~~contract~~ grant by the Secretary under this chapter shall be subject to 1 V.S.A. chapter 5, subchapter 2 (open meetings) and 1 V.S.A. chapter 5, subchapter 3 (public records), except that in addition to any limitation provided in subchapter 2 or 3:

(1) no person shall disclose any information relating to a proposed transaction or agreement between the service provider and another person, in furtherance of the service provider's public purposes under the law, prior to final execution of such transaction or agreement; and

(2) meetings of the service provider's board to consider such proposed transactions or agreements may be held in executive session under 1 V.S.A. § 313.

(b) Nothing in this section shall be construed to limit the exchange of information between or among regional development corporations or regional planning commissions concerning any activity of the corporations and the commissions, provided that such information shall be subject to the provisions of subsection (a) of this section.

(c) The provisions of 2 V.S.A. chapter 11 (registration of lobbyist) shall apply to regional development corporations and regional planning commissions.

* * *

Sec. C.2. 24 V.S.A. § 4341a is amended to read:

§ 4341a. PERFORMANCE ~~CONTRACTS~~ GRANTS FOR REGIONAL PLANNING SERVICES

(a) The Secretary of Commerce and Community Development shall negotiate and ~~enter into performance contracts with~~ issue performance grants to regional planning commissions, or ~~with~~ to regional planning commissions and regional development corporations in the case of a joint ~~contract~~ grant, to provide regional planning services.

(b) A performance ~~contract~~ grant shall address how the regional planning commission, or regional planning commission and regional development corporation jointly, will improve results and achieve savings compared with the current regional service delivery system, which may include:

(1) a proposal without change in the makeup or change of the area served;

(2) a joint proposal to provide different services ~~under one contract with~~ pursuant to a grant to one or more regional service providers;

(3) co-location with other local, regional, or State service providers;

(4) merger with one or more regional service providers;

(5) consolidation of administrative functions and additional operational efficiencies within the region; or

(6) such other cost-saving mechanisms as may be available.

* * * Vermont Training Program * * *

Sec. D.1. 10 V.S.A. § 531 is amended to read:

§ 531. THE VERMONT TRAINING PROGRAM

* * *

(e) Work-based learning activities.

(1) In addition to eligible training authorized in subsection (b) of this section, the Secretary of Commerce and Community Development may annually allocate up to 10 percent of the funding appropriated for the Program to fund work-based learning programs and activities with eligible employers to introduce Vermont students in a middle school, secondary school, career technical education program, or postsecondary school to manufacturers and other regionally significant employers.

(2) An employer with a defined work-based learning program or activity developed in partnership with a middle school, secondary school, career

technical education program, or postsecondary school may apply to the Program for a grant to offset the costs the employer incurs for the work-based learning program or activity, including the costs of transportation, curriculum development, and materials.

* * *

(k) Annually on or before January 15, the Secretary shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs. In addition to the reporting requirements under section 540 of this title, the report shall identify:

(1) all active and completed contracts and grants;

(2) from among the following, the category the training addressed:

(A) preemployment training or other training for a new employee to begin a newly created position with the employer;

(B) preemployment training or other training for a new employee to begin in an existing position with the employer;

(C) training for an incumbent employee who, upon completion of training, assumes a newly created position with the employer;

(D) training for an incumbent employee who upon completion of training assumes a different position with the employer;

(E) training for an incumbent employee to upgrade skills;

(3) for the training identified in subdivision (2) of this subsection whether the training is onsite or classroom-based;

(4) the number of employees served;

(5) the average wage by employer;

(6) any waivers granted;

(7) the identity of the employer, or, if unknown at the time of the report, the category of employer;

(8) the identity of each training provider; ~~and~~

(9) whether training results in a wage increase for a trainee, and the amount of increase; and

(10) the number, type, and description of grants for work-based learning programs and activities awarded pursuant to subsection (e) of this section.

* * * Corporations; Mergers, Conversions, Domestications, Share Exchanges,

Limited Liability Company Technical Corrections * * *

Sec. E.1. 11A V.S.A. chapter 11 is amended to read:

~~CHAPTER 11. MERGER AND SHARE EXCHANGE~~

~~§ 11.01. MERGER~~

~~(a) One or more corporations may merge into another corporation if the board of directors of each corporation adopts and its shareholders (if required by section 11.03 of this title) approve a plan of merger.~~

~~(b) The plan of merger must set forth:~~

~~(1) the name of each corporation planning to merge and the name of the surviving corporation into which each other corporation plans to merge;~~

~~(2) the terms and conditions of the merger; and~~

~~(3) the manner and basis of converting the shares of each corporation into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property in whole or in part.~~

~~(c) The plan of merger may set forth:~~

~~(1) amendments to the articles of incorporation of the surviving corporation; and~~

~~(2) other provisions relating to the merger.~~

~~§ 11.02. SHARE EXCHANGE~~

~~(a) A corporation may acquire all of the outstanding shares of one or more classes or series of another corporation if the board of directors of each corporation adopts and its shareholders (if required by section 11.03 of this title) approve the exchange.~~

~~(b) The plan of exchange must set forth:~~

~~(1) the name of the corporation whose shares will be acquired and the name of the acquiring corporation;~~

~~(2) the terms and conditions of the exchange;~~

~~(3) the manner and basis of exchanging the shares to be acquired for shares, obligations, or other securities of the acquiring or any other corporation or for cash or other property in whole or in part.~~

~~(c) The plan of exchange may set forth other provisions relating to the exchange.~~

(d) This section does not limit the power of a corporation to acquire all or part of the shares of one or more classes or series of another corporation through a voluntary exchange or otherwise.

§ 11.03. ACTION ON PLAN

(a) After adopting a plan of merger or share exchange, the board of directors of each corporation party to the merger, and the board of directors of the corporation whose shares will be acquired in the share exchange, shall submit the plan of merger (except as provided in subsection (g) of this section) or share exchange for approval by its shareholders.

(b) For a plan of merger or share exchange to be approved:

(1) the board of directors must recommend the plan of merger or share exchange to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the plan; and

(2) the shareholders entitled to vote must approve the plan.

(c) The board of directors may condition its submission of the proposed merger or share exchange on any basis.

(d) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with section 7.05 of this title. The notice must also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger or share exchange and contain or be accompanied by a copy or summary of the plan.

(e) Unless this title, the articles of incorporation, or the board of directors (acting pursuant to subsection (c) of this section) require a greater vote or a vote by voting groups, the plan of merger or share exchange to be authorized must be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group.

(f) Separate voting by voting groups is required:

(1) on a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation, would require action by one or more separate voting groups on the proposed amendment under section 10.04 of this title;

(2) on a plan of share exchange by each class or series of shares included in the exchange, with each class or series constituting a separate voting group.

(g) Action by the shareholders of the surviving corporation on a plan of merger is not required if:

(1) the articles of incorporation of the surviving corporation will not differ (except for amendments enumerated in section 10.02 of this title) from its articles before the merger;

(2) each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations, and relative rights, immediately after;

(3) the number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable as a result of the merger (either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger), will not exceed by more than 20 percent the total number of voting shares of the surviving corporation outstanding immediately before the merger; and

(4) the number of participating shares outstanding immediately after the merger, plus the number of participating shares issuable as a result of the merger (either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger), will not exceed by more than 20 percent the total number of participating shares outstanding immediately before the merger.

(h) As used in subsection (g) of this section:

(1) "Participating shares" mean shares that entitle their holders to participate without limitation in distributions.

(2) "Voting shares" mean shares that entitle their holders to vote unconditionally in elections of directors.

(i) After a merger or share exchange is authorized, and at any time before articles of merger or share exchange are filed, the planned merger or share exchange may be abandoned (subject to any contractual rights), without further shareholder action, in accordance with the procedure set forth in the plan of merger or share exchange or, if none is set forth, in the manner determined by the board of directors.

§ 11.04. MERGER OF SUBSIDIARY

(a) A parent corporation owning at least 90 percent of the outstanding shares of each class of a subsidiary corporation may merge the subsidiary into itself without approval of the shareholders of the parent or subsidiary.

(b) The board of directors of the parent shall adopt a plan of merger that sets forth:

(1) the names of the parent and subsidiary; and

(2) the manner and basis of converting the shares of the subsidiary into shares, obligations, or other securities of the parent or any other corporation or into cash or other property in whole or in part.

(c) The parent shall mail a copy or summary of the plan merger to each shareholder of the subsidiary who does not waive the mailing requirement in writing.

(d) The parent may not deliver articles of merger to the secretary of state for filing until at least 30 days after the date it mailed a copy of the plan of merger to each shareholder of the subsidiary who did not waive the mailing requirement.

(e) Articles of merger under this section may not contain amendments to the articles of incorporation of the parent corporation (except for amendments enumerated in section 10.02 of this title).

§ 11.05. ARTICLES OF MERGER OR SHARE EXCHANGE

(a) After a plan of merger or share exchange is approved by the shareholders, or adopted by the board of directors if shareholder approval is not required, the surviving or acquiring corporation shall deliver to the secretary of state for filing, articles of merger or share exchange setting forth:

(1) the plan of merger or share exchange;

(2) if shareholder approval was not required, a statement to that effect;

(3) if approval of the shareholders of one or more corporations party to the merger or share exchange was required:

(A) the designation, number of outstanding shares, and number of votes entitled to be cast by each voting group entitled to vote separately on the plan as to each corporation; and

(B) either the total number of votes cast for and against the plan by each voting group entitled to vote separately on the plan or the total number of undisputed votes cast for the plan separately by each voting group and a statement that the number cast for the plan by each voting group was sufficient for approval by that voting group.

(b) A merger or share exchange takes effect upon the effective date of the articles of merger or share exchange as provided in section 1.23 of this title.

§ 11.06. EFFECT OF MERGER OR SHARE EXCHANGE

(a) When a merger takes effect:

(1) every other corporation party to the merger merges into the surviving corporation and the separate existence of every corporation except the surviving corporation ceases;

(2) the title to all real estate and other property owned by each corporation party to the merger is vested in the surviving corporation without reversion or impairment;

(3) the surviving corporation has all liabilities of each corporation party to the merger;

(4) a proceeding pending against any corporation party to the merger may be continued as if the merger did not occur or the surviving corporation may be substituted in the proceeding for the corporation whose existence ceased;

(5) the articles of incorporation of the surviving corporation are amended to the extent provided in the plan of merger; and

(6) the shares of each corporation party to the merger that are to be converted into shares, obligations, or other securities of the surviving or any other corporation or into cash or other property are converted, and the former holders of the shares are entitled only to the rights provided in the articles of merger or to their rights under chapter 13 of this title.

(b) When a share exchange takes effect, the shares of each acquired corporation are exchanged as provided in the plan, and the former holders of the shares are entitled only to the exchange rights provided in the articles of share exchange or to their rights under chapter 13 of this title.

§ 11.07. MERGER OR SHARE EXCHANGE WITH FOREIGN CORPORATION

(a) One or more foreign corporations may merge or enter into a share exchange with one or more domestic corporations if:

(1) in a merger, the merger is permitted by the law of the state or country under whose law each foreign corporation is incorporated and each foreign corporation complies with that law in effecting the merger;

(2) in a share exchange, the corporation whose shares will be acquired is a domestic corporation, whether or not a share exchange is permitted by the law of the state or country under whose law the acquiring corporation is incorporated;

~~(3) the foreign corporation complies with section 11.05 of this title if it is the surviving corporation of the merger or acquiring corporation of the share exchange; and~~

~~(4) each domestic corporation complies with the applicable provisions of sections 11.01 through 11.04 of this title and, if it is the surviving corporation of the merger or acquiring corporation of the share exchange, with section 11.05 of this title.~~

~~(b) Upon the merger or share exchange taking effect, the surviving foreign corporation of a merger and the acquiring foreign corporation of a share exchange is deemed:~~

~~(1) to appoint the secretary of state as its agent for service of process in a proceeding to enforce any obligation or the rights of dissenting shareholders of each domestic corporation party to the merger or share exchange; and~~

~~(2) to agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger or share exchange the amount, if any, to which they are entitled under chapter 13 of this title.~~

~~(c) This section does not limit the power of a foreign corporation to acquire all or part of the shares of one or more classes or series of a domestic corporation through a voluntary exchange or otherwise.~~

CHAPTER 11. CONVERSION, MERGER, SHARE EXCHANGE, AND DOMESTICATION

§ 11.01. DEFINITIONS

In this chapter:

(1) "Constituent corporation" means a constituent organization that is a corporation.

(2) "Constituent organization" means an organization that is a party to a conversion, merger, share exchange, or domestication pursuant to this chapter.

(3) "Conversion" means a transaction authorized by sections 11.02 through 11.07 of this title.

(4) "Converted organization" means the converting organization as it continues in existence after a conversion.

(5) "Converting organization" means the domestic organization that approves a plan of conversion pursuant to section 11.04 of this title or the foreign organization that approves a conversion pursuant to the law of its jurisdiction of formation.

(6) "Domestic organization" means an organization whose internal affairs are governed by the law of this State.

(7) "Domesticated corporation" means the corporation that exists after a domesticating corporation effects a domestication pursuant to sections 11.13 through 11.16 of this title.

(8) "Domesticating corporation" means the corporation that effects a domestication pursuant to sections 11.13 through 11.16 of this title.

(9) "Domestication" means a transaction authorized by sections 11.13 through 11.16 of this title.

(10) "Governing statute" means the statute that governs an organization's internal affairs.

(11) "Interest holder" means:

(A) a shareholder of a business corporation;

(B) a member of a nonprofit corporation;

(C) a general partner of a general partnership, including a limited liability partnership;

(D) a general partner of a limited partnership, including a limited liability partnership;

(E) a limited partner of a limited partnership, including a limited liability partnership;

(F) a member of a limited liability company;

(G) a shareholder of a general cooperative association;

(H) a member of a limited cooperative association or mutual benefit enterprise;

(I) a member of an unincorporated nonprofit association;

(J) a beneficiary or beneficial owner of a statutory trust, business trust, or common-law business trust; or

(K) any other direct holder of an interest.

(12) "Merger" means a merger authorized by sections 11.08 through 11.12 of this title.

(13) "Organization":

(A) means any of the following, whether a domestic or foreign organization, and regardless of whether organized for profit:

(i) a business corporation;

(ii) a nonprofit corporation;

(iii) a general partnership, including a limited liability partnership;

(iv) a limited partnership, including a limited liability limited partnership;

(v) a limited liability company;

(vi) a general cooperative association;

(vii) a limited cooperative association or mutual benefit enterprise;

(viii) an unincorporated nonprofit association;

(ix) a statutory trust, business trust, or common-law business trust; or

(x) any other person that has:

(I) a legal existence separate from any interest holder of that person; or

(II) the power to acquire an interest in real property in its own name; and

(B) does not include:

(i) an individual;

(ii) a trust with a predominantly donative purpose or a charitable trust;

(iii) an association or relationship that is not an organization listed in subdivision (A) of this subdivision (13) and is not a partnership under 11 V.S.A. chapter 22 or 23, or a similar provision of law of another jurisdiction;

(iv) a decedent's estate; or

(v) a government or a governmental subdivision, agency, or instrumentality.

(14) "Organizational documents" means the organizational documents for a domestic or foreign organization that create the organization, govern the internal affairs of the organization, and govern relations between or among its interest holders, including:

(A) for a general partnership, its statement of partnership authority and partnership agreement;

(B) for a limited liability partnership, its statement of qualification and partnership agreement;

(C) for a limited partnership, its certificate of limited partnership and partnership agreement;

(D) for a limited liability company, its certificate or articles of organization and operating agreement, or comparable records as provided in its governing statute;

(E) for a business trust, its agreement of trust and declaration of trust;

(F) for a business corporation, its certificate or articles of incorporation, bylaws, and other agreements among its shareholders which are authorized by its governing statute, or comparable records as provided in its governing statute; and

(G) for any other organization, the basic records that create the organization and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.

(15) "Personal liability" means:

(A) liability for a debt, obligation, or other liability of an organization which is imposed on a person:

(i) by the governing statute solely by reason of the person co-owning, having an interest in, or being a member of the organization; or

(ii) by the organization's organizational documents under a provision of the governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, obligations, or other liabilities of the organization solely by reason of the person or persons co-owning, having an interest in, or being a member of the organization; or

(B) an obligation of an interest holder under the organizational documents of an organization to contribute to the organization.

(16) "Private organizational documents" means organizational documents or portions thereof for a domestic or foreign organization that are not part of the organization's public record, if any, and includes:

(A) the bylaws of a business corporation;

(B) the bylaws of a nonprofit corporation;

(C) the partnership agreement of a general partnership or limited liability partnership;

(D) the partnership agreement of a limited partnership or limited liability limited partnership;

(E) the operating agreement of a limited liability company;

(F) the bylaws of a general cooperative association;

(G) the bylaws of a limited cooperative association or mutual benefit enterprise;

(H) the governing principles of an unincorporated nonprofit association; and

(I) the trust instrument of a statutory trust or similar rules of a business trust or common-law business trust.

(17) "Protected agreement" means:

(A) a record evidencing indebtedness and any related agreement in effect on July 1, 2017;

(B) an agreement that is binding on an organization on July 1, 2017;

(C) the organizational documents of an organization in effect on July 1, 2017; or

(D) an agreement that is binding on any of the partners, directors, managers, or interest holders of an organization on July 1, 2017.

(18) "Public organizational documents" means the record of organizational documents required to be filed with the Secretary of State to form an organization, and any amendment to or restatement of that record, and includes:

(A) the articles of incorporation of a business corporation;

(B) the articles of incorporation of a nonprofit corporation;

(C) the statement of partnership authority of a general partnership;

(D) the statement of qualification of a limited liability partnership;

(E) the certificate of limited partnership of a limited partnership;

(F) the articles of organization of a limited liability company;

(G) the articles of incorporation of a general cooperative association;

(H) the articles of organization of a limited cooperative association or mutual benefit enterprise; and

(I) the certificate of trust of a statutory trust or similar record of a business trust.

(19) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(20) "Share exchange" means a share exchange authorized by sections 11.08 through 11.12 of this title.

(21) "Surviving organization" means an organization into which one or more other organizations are merged whether the organization preexisted the merger or was created by the merger.

§ 11.02. CONVERSION AUTHORIZED

(a) By complying with sections 11.03 through 11.06 of this title, a domestic corporation may become a domestic organization that is a different type of organization.

(b) By complying with sections 11.03 through 11.06 of this title, a domestic organization may become a domestic corporation.

(c) By complying with sections 11.03 through 11.06 of this title applicable to foreign organizations, a foreign organization that is not a foreign corporation may become a domestic corporation if the conversion is authorized by the law of the foreign organization's jurisdiction of formation.

(d) If a protected agreement contains a provision that applies to a merger of a domestic corporation but does not refer to a conversion, the provision applies to a conversion of the corporation as if the conversion were a merger until the provision is amended after July 1, 2017.

§ 11.03. PLAN OF CONVERSION

(a) A domestic corporation may convert to a different type of organization under section 11.02 of this title by approving a plan of conversion, and a domestic organization, other than a corporation, may convert into a domestic corporation by approving a plan of conversion. The plan shall be in a record and shall contain:

(1) the name of the converting corporation or organization;

(2) the name, jurisdiction of formation, and type of organization of the converted organization;

(3) the manner and basis for converting an interest holder's interest in the converting organization into any combination of an interest in the converted organization and other consideration;

(4) the proposed public organizational documents of the converted organization if it will be an organization with public organizational documents filed with the Secretary of State;

(5) the full text of the private organizational documents of the converted organization that are proposed to be in a record;

(6) the other terms and conditions of the conversion; and

(7) any other provision required by the law of this State or the organizational documents of the converting corporation.

(b) A plan of conversion may contain any other provision not prohibited by law.

§ 11.04. APPROVAL OF CONVERSION

Subject to section 11.17 of this title and any contractual rights, a converting organization shall approve a plan of conversion as follows:

(1) a domestic corporation shall approve a plan of conversion in accordance with the procedures for approving a merger under section 11.10 of this title;

(2) any other organization shall approve a plan of conversion in accordance with its governing statute and its organizational documents; provided:

(A) if its organizational documents do not address the manner for approving a conversion, then a plan of conversion shall be approved by the same vote required under the organizational documents for a merger; and

(B) if its organizational documents do not provide for approval of a merger, then by the approval of the number or percentage of interest holders required to approve a merger under the governing statute.

§ 11.05. AMENDMENT OR ABANDONMENT OF PLAN OF CONVERSION

(a) A domestic corporation may amend a plan of conversion:

(1) in the same manner the corporation approved the plan, if the plan does not specify how to amend the plan; or

(2) by its directors and shareholders as provided in the plan, but a shareholder who was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to an amendment of the plan that will change:

(A) the amount or kind of consideration the shareholder may receive under the plan;

(B) the public organizational documents, if any, or private organizational documents of the converted organization in effect after the conversion, except for a change that the interest holders of the converted organization are not required to approve under its governing statute or organizational documents; or

(C) other terms or conditions of the plan if the change would adversely affect the shareholder in any material respect.

(b) A domestic general or limited partnership may amend a plan of conversion:

(1) in the same manner the partnership approved the plan, if the plan does not specify how to amend the plan; or

(2) by the partners as provided in the plan, but a partner who was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to an amendment of the plan that will change:

(A) the amount or kind of consideration the partner may receive under the plan;

(B) the public organizational documents, if any, or private organizational documents of the converted organization in effect after the conversion, except for a change that the interest holders of the converted organization are not required to approve under its governing statute or organizational documents; or

(C) other terms or conditions of the plan if the change would adversely affect the partner in any material respect.

(c) A domestic limited liability company may amend a plan of conversion:

(1) in the same manner the company approved the plan, if the plan does not specify how to amend the plan; or

(2) by the managers or members as provided in the plan, but a member who was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to an amendment of the plan that will change:

(A) the amount or kind of consideration the member may receive under the plan;

(B) the public organizational documents, if any, or private organizational documents of the converted organization in effect after the conversion, except for a change that the interest holders of the converted

organization are not required to approve under its governing statute or organizational documents; or

(C) other terms or conditions of the plan if the change would adversely affect the member in any material respect.

(d)(1) After a domestic converting organization approves a plan of conversion, and before a statement of conversion takes effect, the organization may abandon the conversion as provided in the plan.

(2) Unless prohibited by the plan, the organization may abandon the plan in the same manner it approved the plan.

(e)(1) A domestic converting organization that abandons a plan of conversion pursuant to subsection (d) of this section shall deliver a signed statement of abandonment to the Secretary of State for filing before the statement of conversion takes effect.

(2) The statement of abandonment shall contain:

(A) the name of the converting organization;

(B) the date the Secretary of State filed the statement of conversion; and

(C) a statement that the converting organization has abandoned the conversion pursuant to this section.

(3) A statement of abandonment takes effect, on filing, and on filing the conversion is abandoned and does not take effect.

§ 11.06. STATEMENT OF CONVERSION; EFFECTIVE DATE OF CONVERSION

(a) A converting organization shall sign a statement of conversion and deliver it to the Secretary of State for filing.

(b) A statement of conversion shall contain:

(1) the name, jurisdiction of formation, and type of organization prior to the conversion;

(2) the name, jurisdiction of formation, and type of organization following the conversion;

(3) if the converting organization is a domestic organization, a statement that the organization approved the plan of conversion in accordance with the provisions of this chapter, or, if the converting organization is a foreign organization, a statement that the organization approved the conversion in accordance with its governing statute; and

(4) the public organizational documents of the converted organization.

(c) A statement of conversion may contain any other provision not prohibited by law.

(d) If the converted organization is a domestic organization, its public organizational documents, if any, shall comply with the law of this State.

(e)(1) If a converted organization is a domestic corporation, its conversion takes effect when the statement of conversion takes effect.

(2) If a converted organization is not a domestic corporation, its conversion takes effect on the later of:

(A) the date and time provided by its governing statute; or

(B) when the statement of conversion takes effect.

§ 11.07. EFFECT OF CONVERSION

(a) When a conversion takes effect:

(1) The converted organization is:

(A) organized under and subject to the governing statute of the converted organization; and

(B) the same organization continuing without interruption as the converting organization.

(2) The property of the converting organization continues to be vested in the converted organization without transfer, assignment, reversion, or impairment.

(3) The debts, obligations, and other liabilities of the converting organization continue as debts, obligations, and other liabilities of the converted organization.

(4) Except as otherwise provided by law or the plan of conversion, the rights, privileges, immunities, powers, and purposes of the converting organization remain in the converted organization.

(5) A court or other authority may substitute the name of the converted organization for the name of the converting organization in any pending action or proceeding.

(6) The public organizational documents of the converted organization takes effect.

(7) The provisions of the organizational documents of the converted organization that are required to be in a record, if any, that were approved as part of the plan of conversion take effect.

(8) The interests in the converting organization are converted, and the interest holders of the converting organization are entitled only to the rights provided to them under the plan of conversion.

(b) Except as otherwise provided in the organizational documents of a domestic converting organization, a conversion does not give rise to any rights that a shareholder, member, partner, limited partner, director, or third party would have upon a dissolution, liquidation, or winding up of the converting organization.

(c) When a conversion takes effect, a person who did not have personal liability with respect to the converting organization and becomes subject to personal liability with respect to the converted organization as a result of the conversion has personal liability only to the extent provided by the governing statute of the converted organization and only for those debts, obligations, and other liabilities that the converted organization incurs after the conversion.

(d) When a conversion takes effect, a person who had personal liability for a debt, obligation, or other liability of the converting organization but who does not have personal liability with respect to the converted organization is subject to the following rules:

(1) The conversion does not discharge any personal liability under this title to the extent the personal liability was incurred before the conversion took effect.

(2) The person does not have personal liability under this title for any debt, obligation, or other liability that arises after the conversion takes effect.

(3) This title continues to apply to the release, collection, or discharge of any personal liability preserved under subdivision (1) of this subsection as if the conversion had not occurred.

(4) The person has the rights of contribution from another person that are provided by this title, law other than this title, or the organizational documents of the converting organization with respect to any personal liability preserved under subdivision (1) of this subsection as if the conversion had not occurred.

(e) When a conversion takes effect, a person may serve a foreign organization that is the converted organization with process in this State for the collection and enforcement of any of its debts, obligations, and other liabilities as provided in section 5.04 of this title.

(f) If the converting organization is a registered foreign organization, its registration to do business in this State is canceled when the conversion takes effect.

(g) A conversion does not require an organization to wind up its affairs and does not constitute or cause the dissolution of the organization.

§ 11.08. MERGER AUTHORIZED; PLAN OF MERGER

(a) A corporation organized pursuant to this title may merge with one or more other constituent organizations pursuant to this section and sections 11.09 through 11.12 of this title and a plan of merger if:

(1) the governing statute of each of the other constituent organizations authorizes the merger;

(2) the merger is not prohibited by the law of a jurisdiction that enacted any of the governing statutes; and

(3) each of the other constituent organizations complies with its governing statute in effecting the merger.

(b) A plan of merger shall be in a record and shall include:

(1) the name and type of each constituent organization;

(2) the name and type of the surviving constituent organization and, if the surviving constituent organization is created by the merger, a statement to that effect;

(3) the terms and conditions of the merger, including the manner and basis for converting an interest holder's interest in each constituent organization into any combination of an interest in the surviving organization and other consideration;

(4) if the merger creates the surviving constituent organization, the surviving constituent organization's organizational documents that are proposed to be in a record; and

(5) if the merger does not create the surviving constituent organization, any amendments to the surviving constituent organization's organizational documents that are, or are proposed to be, in a record.

§ 11.09. SHARE EXCHANGE AUTHORIZED; PLAN OF SHARE EXCHANGE

(a) A corporation may acquire all of the outstanding shares of one or more classes or series of another corporation if the board of directors of each corporation adopts, and its shareholders, if required under section 11.10 of this title, approve a plan of share exchange.

(b) The plan of share exchange shall be in a record and shall include:

(1) the name of the corporation whose shares will be acquired and the name of the acquiring corporation; and

(2) the terms and conditions of the share exchange; including the manner and basis of exchanging the shares to be acquired in exchange for shares of the acquiring corporation or other consideration.

(c) The plan of share exchange may contain any other provision not prohibited by law.

§ 11.10. APPROVAL OF PLAN OF MERGER OR SHARE EXCHANGE

(a) Subject to section 11.17 of this title and any contractual rights, a constituent organization shall approve a plan of merger or share exchange as follows:

(1) if the constituent organization is a corporation:

(A) the board of directors must recommend the plan of merger or share exchange to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders with the plan; and

(B) the shareholders entitled to vote must approve the plan; and

(2) if the constituent organization is not a corporation, the plan of merger or share exchange shall be approved in accordance with the organization's governing statute and organizational documents.

(b) The board of directors of a constituent corporation may condition its submission of the proposed merger or share exchange on any basis.

(c) For a constituent organization that is a domestic corporation:

(1)(A) The constituent organization shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with section 7.05 of this title.

(B) The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger or share exchange and contain or be accompanied by a copy or summary of the plan.

(2) Unless this title, the articles of incorporation, or the board of directors acting pursuant to subsection (b) of this section requires a greater vote or a vote by voting groups, the plan of merger or share exchange must be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group.

(3) Separate voting by voting groups is required:

(A) on a plan of merger if the plan contains a provision that, if contained in a proposed amendment to articles of incorporation, would require action by one or more separate voting groups on the proposed amendment under section 10.04 of this title; and

(B) on a plan of share exchange by each class or series of shares included in the exchange, with each class or series constituting a separate voting group.

(4) Action by the shareholders of the surviving corporation on a plan of merger is not required if:

(A) the articles of incorporation of the surviving corporation will not differ, except for amendments enumerated in section 10.02 of this title, from its articles before the merger;

(B) each shareholder of the surviving corporation whose shares were outstanding immediately before the effective date of the merger will hold the same number of shares, with identical designations, preferences, limitations, and relative rights, immediately after;

(C) the number of voting shares outstanding immediately after the merger, plus the number of voting shares issuable as a result of the merger, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger, will not exceed by more than 20 percent the total number of voting shares of the surviving corporation outstanding immediately before the merger; and

(D) the number of participating shares outstanding immediately after the merger, plus the number of participating shares issuable as a result of the merger, either by the conversion of securities issued pursuant to the merger or the exercise of rights and warrants issued pursuant to the merger, will not exceed by more than 20 percent the total number of participating shares outstanding immediately before the merger.

(5) As used in this subsection:

(A) "Participating shares" means shares that entitle their holders to participate without limitation in distributions.

(B) "Voting shares" means shares that entitle their holders to vote unconditionally in elections of directors.

(d) Subject to section 11.17 of this title and any contractual rights, after a constituent organization approves a merger or share exchange, and before the organization delivers articles of merger or share exchange to the Secretary of

State for filing, a constituent organization may amend the plan or abandon the merger or share exchange:

(1) as provided in the plan; or

(2) except as otherwise prohibited in the plan, in the same manner it approved the plan.

§ 11.11. FILING REQUIRED FOR MERGER OR SHARE EXCHANGE; EFFECTIVE DATE

(a) After each constituent organization approves a merger or share exchange, a person with appropriate authority shall sign articles of merger or share exchange on behalf of:

(1) each constituent corporation; and

(2) each other constituent organization as required by its governing statute.

(b) Articles of merger under this section shall be in a record and shall include:

(1) the name and type of each constituent organization and the jurisdiction of its governing statute;

(2) the name and type of the surviving constituent organization, the jurisdiction of its governing statute, and, if the merger creates the surviving constituent organization, a statement to that effect;

(3) the date the merger takes effect under the governing statute of the surviving constituent organization;

(4) if the merger creates the surviving constituent organization, its public organizational documents;

(5) if the surviving constituent organization preexists the merger, any amendments to its public organizational documents;

(6) a statement on behalf of each constituent organization that it approved the merger as required by its governing statute;

(7) if the surviving constituent organization is a foreign constituent organization not authorized to transact business in this State, the street and mailing addresses of an office that the Secretary of State may use for service of process pursuant to subsection 5.04(b) of this title; and

(8) any additional information the governing statute of a constituent organization requires.

(c) A merger takes effect under this chapter:

(1) if the surviving constituent organization is a corporation, upon the later of:

(A) compliance with subsection (f) of this section; or

(B) subject to section 1.23 of this title, as specified in the articles of merger; or

(2) if the surviving constituent organization is not a corporation, as provided by the governing statute of the surviving constituent organization.

(d) Articles of share exchange under this section shall be in a record and shall include:

(1) the name and type of each constituent organization and the jurisdiction of its governing statute;

(2) the date the share exchange takes effect under the governing statute of each of the constituent organizations;

(3) a statement on behalf of each constituent organization that it approved the share exchange as required by its governing statute;

(4) if either constituent organization is a foreign organization not authorized to transact business in this State, the street and mailing addresses of an office that the Secretary of State may use for service of process pursuant to subsection 5.04(b) of this title; and

(5) any additional information the governing statute of a constituent organization requires.

(e) A share exchange takes effect under this chapter upon the later of:

(1) compliance with subsection (f) of this section; or

(2) subject to section 1.23 of this title, as specified in the articles of share exchange.

(f) Each constituent organization shall deliver the articles of merger or share exchange for filing in the Office of the Secretary of State.

§ 11.12. EFFECT OF MERGER OR SHARE EXCHANGE

(a) When a merger takes effect:

(1) the surviving constituent organization continues or comes into existence;

(2) each constituent organization that merges into the surviving constituent organization ceases to exist as a separate entity;

(3) the property of each constituent organization that ceases to exist vests in the surviving constituent organization without transfer, assignment, reversion, or impairment;

(4) the debts, obligations, and other liabilities of each constituent organization that ceases to exist continue as debts, obligations, and other liabilities of the surviving constituent organization;

(5) an action or proceeding pending by or against a constituent organization that ceases to exist continues as if the merger did not occur;

(6) except as prohibited by other law, the rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist vest in the surviving constituent organization;

(7) except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect;

(8) except as otherwise agreed, if a constituent corporation ceases to exist, the merger does not dissolve the corporation for the purposes of chapter 14 of this title;

(9) if the merger creates the surviving constituent organization, its public organizational documents take effect; and

(10) if the surviving constituent organization preexists the merger, any amendments to its public organizational documents take effect.

(b)(1) A surviving constituent organization that is a foreign organization consents to the jurisdiction of the courts of this State to enforce a debt, obligation, or other liability the constituent organization owes, if before the merger the constituent organization was subject to suit in this State on the debt, obligation, or other liability.

(2) A surviving constituent organization that is a foreign organization and not authorized to transact business in this State appoints the Secretary of State as its agent for service of process for the purposes of enforcing a debt, obligation, or other liability under this subsection.

(3) A person shall serve the Secretary of State under this subsection in the same manner, and the service has the same consequences, as in section 5.04 of this title.

(c) When a share exchange takes effect:

(1) the shares of each acquired constituent organization are exchanged as provided in the plan of share exchange; and

(2) the former holders of the shares are entitled only to the exchange rights provided in the articles of share exchange or to their rights under chapter 13 of this title.

§ 11.13. DOMESTICATION AUTHORIZED

(a) A foreign corporation may become a domestic corporation pursuant to this section and sections 11.14 through 11.17 of this title and a plan of domestication if:

(1) the foreign corporation's governing statute and its organizational documents permit the domestication; and

(2) the foreign corporation complies with its governing statute and organizational documents.

(b) A domestic corporation may become a foreign corporation pursuant to this section and sections 11.14 through 11.17 of this title and a plan of domestication if:

(1) its organizational documents permit the domestication; and

(2) the corporation complies with this section and sections 11.14 through 11.17 of this title and its organizational documents.

(c) A plan of domestication shall be in a record and shall include:

(1) the name of the domesticating corporation before domestication and the jurisdiction of its governing statute;

(2) the name of the domesticated corporation after domestication and the jurisdiction of its governing statute;

(3) the terms and conditions of the domestication, including the manner and basis for converting an interest holder's interest in the domesticating organization into any combination of an interest in the domesticated organization and other consideration; and

(4) the organizational documents of the domesticated corporation that are, or are proposed to be, in a record.

§ 11.14. ACTION ON PLAN OF DOMESTICATION

(a) A domesticating corporation shall approve a plan of domestication as follows:

(1) if the domesticating corporation is a domestic corporation, in accordance with this chapter and the corporation's organizational documents; provided that:

(A) if its organizational documents do not specify the vote needed to approve domestication, then by the same vote required for a merger under its organizational documents; or

(B) if its organizational documents do not specify the vote required for a merger, then by the number or percentage of shareholders required to approve a merger under this chapter;

(2) if the domesticating corporation is a foreign corporation, as provided in its organizational documents and governing statute.

(b) Subject to any contractual rights, after a domesticating corporation approves a domestication and before it delivers articles of domestication to the Secretary of State for filing, the domesticating corporation may amend the plan or abandon the domestication:

(1) as provided in the plan; or

(2) except as otherwise prohibited by the plan, in the same manner it approved the plan.

§ 11.15. FILING REQUIRED FOR DOMESTICATION; EFFECTIVE DATE

(a) A domesticating corporation that approves a plan of domestication shall deliver to the Secretary of State for filing articles of domestication that include:

(1) a statement, as the case may be, that the corporation was domesticated from or into another jurisdiction;

(2) the name of the corporation and the jurisdiction of its governing statute prior to the domestication;

(3) the name of the corporation and the jurisdiction of its governing statute following domestication;

(4) the date the domestication takes effect under the governing statute of the domesticated company; and

(5) a statement that the corporation approved the domestication as required by the governing statute of the jurisdiction to which it is domesticating.

(b) When a domesticating corporation delivers articles of domestication to the Secretary of State pursuant to subsection (a) of this section, it shall include:

(1) if the domesticating corporation will be a domestic corporation, articles of incorporation pursuant to section 2.02 of this title;

(2) if the domesticating corporation will be a foreign corporation authorized to transact business in this State, an application for a certificate of authority pursuant to section 15.03 of this title; or

(3) if the domesticating corporation will be a foreign corporation that is not authorized to transact business in this State, the street and mailing addresses of an office that the Secretary of State may use for service of process pursuant to subsection 5.04(b) of this title.

(c) A domestication takes effect:

(1) when the articles of domestication of the domesticating corporation take effect, if the corporation is domesticating to this State; and

(2) according to the governing statute of jurisdiction to which the corporation is domesticating.

§ 11.16. EFFECT OF DOMESTICATION

(a) When a domestication takes effect:

(1) The domesticated corporation is for all purposes the corporation that existed before the domestication.

(2) The property owned by the domesticating corporation remains vested in the domesticated corporation.

(3) The debts, obligations, and other liabilities of the domesticating corporation continue as debts, obligations, and other liabilities of the domesticated corporation.

(4) An action or proceeding pending by or against a domesticating corporation continues as if the domestication had not occurred.

(5) Except as prohibited by other law, the rights, privileges, immunities, powers, and purposes of the domesticating corporation remain vested in the domesticated corporation.

(6) Except as otherwise provided in the plan of domestication, the terms and conditions of the plan of domestication take effect.

(7) Except as otherwise agreed, the domestication does not dissolve a domesticating corporation for the purposes of this chapter 11.

(b)(1) A domesticated corporation that was a foreign corporation consents to the jurisdiction of the courts of this State to enforce a debt, obligation, or other liability the domesticating corporation owes, if, before the domestication, the domesticating corporation was subject to suit in this State on the debt, obligation, or other liability.

(2) A domesticated corporation that was a foreign corporation and not authorized to transact business in this State appoints the Secretary of State as its agent for service of process for purposes of enforcing a debt, obligation, or other liability under this subsection.

(3) A person shall serve the Secretary of State under this subsection in the same manner, and the service has the same consequences, as in section 5.04 of this title.

(c) A corporation that domesticates in a foreign jurisdiction shall deliver to the Secretary of State for filing a statement surrendering the corporation's certificate of organization that includes:

(1) the name of the corporation;

(2) a statement that the articles of incorporation are surrendered in connection with the domestication of the company in a foreign jurisdiction;

(3) a statement that the corporation approved the domestication as required by this title; and

(4) the name of the relevant foreign jurisdiction.

§ 11.17. RESTRICTION ON APPROVAL OF CONVERSION, MERGER, AND DOMESTICATION

(a) An approval or amendment of a plan of conversion, plan of merger, or plan of domestication under this chapter is ineffective without the approval of each interest holder of a surviving constituent who will have personal liability for a debt, obligation, or other liability of the organization, unless:

(1) a provision of the organization's organizational documents provides in a record that some or all of its interest holders may be subject to personal liability by a vote or consent of fewer than all of the interest holders; and

(2)(A) the interest holder voted for or consented in a record to the provision referenced in subdivision (1)(A) of this subsection; or

(B) the interest holder became an interest holder after the organization adopted the provision referenced in subdivision (1)(A) of this subsection.

(b) An interest holder does not provide consent as required in subdivision (a)(2)(A) of this section merely by consenting to a provision of the organizational documents that permits the organization to amend the organizational documents with the approval of fewer than all of the interest holders.

§ 11.18. CHAPTER NOT EXCLUSIVE

(a) This chapter does not preclude an organization from being converted, merged, or domesticated under law other than this title.

(b) This chapter does not limit the power of a corporation to acquire all or part of the shares of one or more classes or series of another corporation through means other than those included in this chapter.

Sec. E.2. 11A V.S.A. § 13.02 is amended to read:

§ 13.02. RIGHT TO DISSENT

(a) A shareholder is entitled to dissent from, and obtain payment of the fair value of his or her shares in the event of, any of the following corporate actions:

(1) Merger. Consummation of a plan of merger to which the corporation is a party:

(A) if shareholder approval is required for the merger by section ~~11.03~~ 11.10 of this title or the articles of incorporation and the shareholder is entitled to vote on the merger; or

(B) if the corporation is a subsidiary that is merged with its parent under section ~~11.04~~ 11.08 of this title~~;~~.

(2) Share exchange. Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the plan~~;~~.

(3) Conversion. Consummation of a plan of conversion pursuant to section 11.03 of this title to which the corporation is a party unless the shareholders of the corporation will have the same dissenters' rights after conversion to the converted organization as they hold before conversion.

(4) Domestication. Consummation of a plan of domestication pursuant to section 11.14 of this title to which the corporation is a party unless the shareholders of the corporation will have the same dissenters' rights after domestication to the domesticated organization as they hold before domestication.

(5) Sale of assets. Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution, but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or substantially all of the net proceeds of the sale will be distributed to the shareholders within one year after the date of sale~~;~~.

~~(4)~~(6) Amendment to articles. An amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter's shares because it:

(A) alters or abolishes a preferential right of the shares;

(B) creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the shares;

(C) alters or abolishes a preemptive right of the holder of the shares to acquire shares or other securities;

(D) excludes or limits the right of the shares to vote on any matter, or to cumulate votes, other than a limitation by dilution through issuance of shares or other securities with similar voting rights; or

(E) reduces the number of shares owned by the shareholder to a fraction of a share if the fractional share so created is to be acquired for cash under section 6.04 of this title~~; or~~.

~~(5)~~(7) Market exception. Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

(b) A shareholder entitled to dissent and obtain payment for his or her shares under this chapter may not challenge the corporate action creating his or her entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

Sec. E.3. 11 V.S.A. chapter 25 is amended to read:

CHAPTER 25. LIMITED LIABILITY COMPANIES

* * *

§ 4003. EFFECT OF OPERATING AGREEMENT; NONWAIVABLE PROVISIONS

(a) Except as otherwise provided in subsection (b) of this section, an operating agreement regulates the affairs of the company and the conduct of its business and governs relations among the members, among the managers, and among the members, managers, and the limited liability company. To the extent the operating agreement does not otherwise provide, this chapter regulates the affairs of the company, the conduct of its business, and governs relations among the members, among the managers, and among members, managers, and the limited liability company.

(b) An operating agreement may not:

(1) vary a limited liability company's capacity under subsection 4011(e) of this title to sue and be sued in its own name;

(2) except as provided in subchapter 8 of this chapter, vary the law applicable under subsection 4011(g) of this title;

(3) vary the power of the court under section 4030 of this title;

(4) subject to subsections (c) through (f) of this section, eliminate or restrict the duty of loyalty, the duty of care, or any other fiduciary duty;

(5) subject to subsections (c) through (f) of this section, eliminate or restrict the contractual obligation of good faith and fair dealing under subsection 4059(d) of this title;

(6) unreasonably restrict the duties and rights with respect to books, records, and other information stated in section 4058 of this title, but the operating agreement may impose reasonable restrictions on the availability and use of information obtained under that section and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;

(7) vary the power of a court to decree dissolution in the circumstances specified in subdivision 4101(a)(4) of this title;

(8) vary the requirement to wind up a limited liability company's business as specified in section ~~4102~~ 4101 of this title;

* * *

§ 4141. DEFINITIONS

~~In~~ As used in this subchapter:

* * *

(3) "Conversion" means a transaction authorized by sections ~~by~~ 4142 through 4147 of this title.

* * *

(13) "Limited partnership" means a limited partnership created under chapter ~~11~~ 23 of this title, a predecessor law, or comparable law of another jurisdiction.

* * *

(17) "Partnership" means a general partnership under chapter ~~9~~ 22 of this title, a predecessor law, or comparable law of another jurisdiction.

* * *

(21) "Protected agreement" means:

(A) ~~a record~~ an instrument or agreement evidencing indebtedness ~~and any related agreement~~ of an organization in effect ~~on the effective date set forth in section 4171 of this title~~ on July 1, 2016, or on the date the organization elects to become subject to this chapter, whichever is earlier;

(B) an agreement that is binding on an organization ~~on the effective date set forth in section 4171 of this title~~ on July 1, 2016, or on the date the organization elects to become subject to this chapter, whichever is earlier;

(C) the organizational documents of an organization in effect ~~on the effective date set forth in section 4171 of this title~~ on July 1, 2016, or on the date the organization elects to become subject to this chapter, whichever is earlier; or

(D) an agreement that is binding on any of the ~~governors~~ directors, officers, general partners, managers, or interest holders of an organization ~~on the effective date set forth in section 4171 of this title~~ on July 1, 2016, or on the date the organization elects to become subject to this chapter, whichever is earlier.

* * *

§ 4142. CONVERSION AUTHORIZED

(a) By complying with sections ~~4142~~ 4143 through 4146 of this title, a domestic limited liability company may become a domestic organization that is a different type of organization.

(b) By complying with sections 4143 through 4146 of this title, a domestic limited liability company may convert into a different type of foreign organization if the conversion is authorized by the foreign statute that governs the organization after conversion and the converting organization complies with the statute.

(c) By complying with sections ~~4142~~ 4143 through 4146 of this title, a domestic ~~partnership or limited partnership~~ organization may become a domestic limited liability company.

~~(c)~~(d) By complying with sections ~~4142~~ 4143 through 4146 of this title applicable to foreign organizations, a foreign organization that is not a foreign limited liability company may become a domestic limited liability company if the conversion is authorized by the law of the foreign organization's jurisdiction of formation.

~~(d)~~(e) If a protected agreement contains a provision that applies to a merger of a domestic limited liability company but does not refer to a conversion, the provision applies to a conversion of the company as if the conversion were a merger until the provision is amended ~~after the effective date set forth in section 4171 of this title~~ after July 1, 2016, or after the date the organization elects to become subject to this chapter, whichever is earlier.

* * *

§ 4149. ACTION ON PLAN OF MERGER BY CONSTITUENT LIMITED LIABILITY COMPANY

(a) Subject to section 4156 of this title, a plan of merger shall be approved in accordance with the organizational documents of the constituent limited liability company, or, in the absence of a provision governing approval of ~~conversions~~ a merger, by all the members of the limited liability company entitled to vote on or consent to any matter.

(b) Subject to section 4156 of this title and any contractual rights, after a merger is approved, and at any time before the articles of merger are delivered to the Secretary of State for filing under section 4150 of this title, a constituent limited liability company may amend the plan or abandon the merger:

(1) as provided in the plan; or

(2) except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

* * *

Sec. E.4. 11 V.S.A. § 1623 is amended to read:

§ 1623. REGISTRATION BY ~~CORPORATIONS AND LIMITED LIABILITY COMPANIES~~ BUSINESS ORGANIZATIONS

(a) A ~~corporation or limited liability company~~ business organization doing business in this State under any name other than that of the ~~corporation or limited liability company~~ business organization shall be subject to all the provisions of this chapter; and shall file returns sworn to by some officer or ~~member~~ director of ~~such~~ the corporation or mutual benefit enterprise, or by some member or manager of ~~such~~ the limited liability company, or by some partner of the partnership or limited partnership, setting forth:

(1) the name and location of the principal office of the business organization;

(2) the ~~name other than the corporation or limited liability company~~ name under which ~~such~~ the organization will conduct business ~~is carried on,~~;

(3) the ~~name of the~~ town ~~wherein such business is to be carried on,~~ or towns where the organization conducts business under the name; and

(4) a brief description of the kind of business ~~transacted under such name, and the corporate or the limited liability company name and location of the principal office of such corporation or limited liability company~~ the organization conducts under the name.

* * *

* * * Vermont State Treasurer; Public Retirement Plan * * *

Sec. F.1. INTERIM STUDY ON THE FEASIBILITY OF ESTABLISHING A PUBLIC RETIREMENT PLAN

(a) Creation of Committee.

(1) There is created a Public Retirement Plan Study Committee to evaluate the feasibility of establishing a public retirement plan.

(2) It is the intent of the General Assembly that the Committee continue the work of the Public Retirement Plan Study Committee created in 2014 Acts and Resolves No. 179, Sec. C.108, as amended by 2015 Acts and Resolves No. 58, Sec. C.100, which ceased to exist on January 15, 2016.

(b) Membership.

(1) The Public Retirement Plan Study Committee shall be composed of eight members as follows:

(A) the State Treasurer or designee;

(B) the Commissioner of Labor or designee;

(C) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(D) an individual with private sector experience in the area of providing retirement products and financial services to small businesses, to be appointed by the Speaker;

(E) an individual with experience or expertise in the area of the financial needs of an aging population, to be appointed by the Committee on Committees;

(F) an individual with experience or expertise in the area of the financial needs of Vermont youth or young working adults, to be appointed by the Treasurer;

(G) a representative of employers, to be appointed by the Speaker; and

(H) a representative of employees who currently lack access to employer-sponsored retirement plans, to be appointed by the Committee on Committees.

(2) Unless another appointee is specified pursuant to the authority granted under subdivision (1) of this subsection, the members of the Public Retirement Plan Study Committee created in 2014 Acts and Resolves No. 179, Sec. C.108, as amended by 2015 Acts and Resolves No. 58, Sec. C.100, which ceased to exist on January 15, 2016, shall serve as the members of the Committee created pursuant to this section.

(c) Powers and duties.

(1)(A) The Committee shall study the feasibility of establishing a public retirement plan, including the following:

(i) the access Vermont residents currently have to employer-sponsored retirement plans and the types of employer-sponsored retirement plans;

(ii) data and estimates on the amount of savings and resources Vermont residents will need for a financially secure retirement;

(iii) data and estimates on the actual amount of savings and resources Vermont residents will have for retirement, and whether those savings and resources will be sufficient for a financially secure retirement;

(iv) current incentives to encourage retirement savings, and the effectiveness of those incentives;

(v) whether other states have created a public retirement plan and the experience of those states;

(vi) whether there is a need for a public retirement plan in Vermont;

(vii) whether a public retirement plan would be feasible and effective in providing for a financially secure retirement for Vermont residents;

(viii) other programs or incentives the State could pursue in combination with a public retirement plan, or instead of such a plan, in order to encourage residents to save and prepare for retirement; and

(B) if the Committee determines that a public retirement plan is necessary, feasible, and effective, the Committee shall study:

(i) potential models for the structure, management, organization, administration, and funding of such a plan;

(ii) how to ensure that the plan is available to private sector employees who are not covered by an alternative retirement plan;

(iii) how to build enrollment to a level where enrollee costs can be lowered;

(iv) whether such a plan should impose any obligation or liability upon private sector employers; and

(v) any other issue the Committee deems relevant.

(2) The Committee shall:

(A) continue monitoring U.S. Department of Labor guidance concerning State Savings Programs for Non-Governmental Employees regarding ERISA rules and other pertinent areas of analysis;

(B) further analyze the relationship between the role of states and the federal government; and

(C) continue its collaboration with educational institutions, other states, and national stakeholders.

(3) The Committee shall have the assistance of the staff of the Office of the Treasurer, the Department of Labor, and the Department of Disabilities, Aging, and Independent Living.

(d) Report. On or before January 15, 2018, the Committee shall report to the General Assembly its findings and any recommendations for legislative action. In its report, the Committee shall state its findings as to every factor set forth in subdivision (c)(1)(A) of this section, whether it recommends that a public retirement plan be created, and the reasons for that recommendation. If the Committee recommends that a public retirement plan be created, the Committee's report shall include specific recommendations as to the factors listed in subdivision (c)(1)(B) of this section.

(e) Meetings; term of Committee; Chair. The Committee may meet as frequently as necessary to perform its work and shall cease to exist on January 15, 2018. The State Treasurer shall serve as Chair of the Committee and shall call the first meeting.

(f) Reimbursement. For attendance at meetings, members of the Committee who are not employees of the State of Vermont shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010 and shall be reimbursed for mileage and travel expenses.

* * * Vermont State Treasurer; ABLE Savings Program * * *

Sec. F.2. 33 V.S.A. § 8001 is amended to read:

§ 8001. PROGRAM ESTABLISHED

* * *

(c) The Treasurer or designee shall have the authority to implement the Program in cooperation with one or more states or other partners in the manner he or she determines is in the best interests of the State and designated beneficiaries.

(d) The Treasurer or designee shall have the authority to adopt rules, policies, and procedures necessary to implement the provisions of this chapter and comply with applicable federal law.

Sec. F.3. 2015 Acts and Resolves No. 51, Sec. C.8 is amended to read:

Sec. C.8. VERMONT ABLE TASK FORCE; REPORTS

~~The~~ Until the State Treasurer or designee implements the ABLE Savings Program pursuant to 33 V.S.A. chapter 80, the Treasurer shall convene a Vermont ABLE Task Force to include representatives of the Department of Disabilities, Aging~~.~~ and Independent Living, the Vermont Developmental Disabilities Council, Vermont Center for Independent Living; Green Mountain Self-Advocates, and other stakeholders with relevant expertise, to provide recommendations annually beginning on or before January 15, 2016 to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs on planning and delivery of the ABLE Savings Program, including:

(1) promotion and marketing of the Program;

(2) rules governing operation of ABLE accounts, including mechanisms for consumer convenience;

(3) fees charged to account owners;

(4) future enhancements to protect from the loss of State benefits as may be necessary to fulfill the intent of the ABLE Act;

(5) the composition and charge of an ABLE Advisory Board; and

(6) a progress update on implementation of the Program consistent with U.S. Treasury Department Rules, the Internal Revenue Code, and the federal ABLE Act (P.L. 113-295 of 2014).

* * * Vermont State Treasurer;

Private Activity Bond Advisory Committee * * *

Sec. F.4. PRIVATE ACTIVITY BOND ADVISORY COMMITTEE

Notwithstanding any provision of 32 V.S.A. § 994 to the contrary, the Private Activity Bond Advisory Committee shall not meet or perform its statutory duties except upon call of the Vermont State Treasurer in his or her discretion.

* * * Vermont State Treasurer;
Vermont Community Loan Fund * * *

Sec. F.5. REPEAL

2014 Acts and Resolves No. 179, Sec. E.131(a) (Treasurer authority to invest in Vermont Community Loan Fund) is repealed.

Sec. F.6. 10 V.S.A. § 9 is added to read:

§ 9. INVESTMENT IN VERMONT COMMUNITY LOAN FUND

(a) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary, the State Treasurer is authorized to invest up to $1,000,000.00 of short-term operating or restricted funds in the Vermont Community Loan Fund on terms acceptable to the Treasurer and consistent with prudent investment principles and guidelines pursuant to 32 V.S.A. § 433(b)–(c).

* * * Vermont State Treasurer; Treasurer's Local Investment
Advisory Committee * * *

Sec. F.7. REPEAL

2014 Acts and Resolves No. 199, Secs. 23–25 (Treasurer's Local Investment Advisory Committee, Report, and Sunset) are repealed.

Sec. F.8. REPEAL

2015 Acts and Resolves No. 51, Sec. E.3 (extending sunset of Local Investment Advisory Committee provisions) is repealed.

Sec. F.9. 10 V.S.A. §§ 10–11 are added to read:

§ 10. VERMONT STATE TREASURER; CREDIT FACILITY FOR LOCAL INVESTMENTS

(a) Notwithstanding any provision of 32 V.S.A. § 433(a) to the contrary, the Vermont State Treasurer shall have the authority to establish a credit facility of up to 10 percent of the State's average cash balance on terms acceptable to the Treasurer and consistent with prudent investment principles

and guidelines pursuant to 32 V.S.A. § 433(b)–(c) and the Uniform Prudent Investor Act, 14A V.S.A. chapter 9.

(b) The amount authorized in subsection (a) of this section shall include all credit facilities authorized by the General Assembly and established by the Treasurer, and the renewal or replacement of those credit facilities.

§ 11. TREASURER'S LOCAL INVESTMENT ADVISORY COMMITTEE

(a) Creation of committee. The Treasurer's Local Investment Advisory Committee is established to advise the Treasurer on funding priorities and address other mechanisms to increase local investment.

(b) Membership.

(1) The Advisory Committee shall be composed of six members as follows:

(A) the State Treasurer or designee;

(B) the Chief Executive Officer of the Vermont Economic Development Authority or designee;

(C) the Chief Executive Officer of the Vermont Student Assistance Corporation or designee;

(D) the Executive Director of the Vermont Housing Finance Agency or designee;

(E) the Director of the Municipal Bond Bank or designee; and

(F) the Director of Efficiency Vermont or designee.

(2) The State Treasurer shall be the Chair of the Advisory Committee and shall appoint a vice chair and secretary. The appointed members of the Advisory Committee shall be appointed for terms of six years and shall serve until their successors are appointed and qualified.

(c) Powers and duties. The Advisory Committee shall:

(1) meet regularly to review and make recommendations to the State Treasurer on funding priorities and using other mechanisms to increase local investment in the State of Vermont;

(2) invite regularly State organizations, citizens' groups, and members of the public to Advisory Committee meetings to present information on needs for local investment, capital gaps, and proposals for financing; and

(3) consult with constituents and review feedback on changes and needs in the local and State investment and financing environments.

(d) Meetings.

(1) Meetings of the Advisory Committee shall occur at the call of the Treasurer.

(2) A majority of the members of the Advisory Committee who are physically present at the same location or available electronically shall constitute a quorum, and a member may participate and vote electronically.

(3) To be effective, action of the Advisory Committee shall be taken by majority vote of the members at a meeting in which a quorum is present.

(e) Report. On or before January 15, the Advisory Committee annually shall submit a report to the Senate Committees on Appropriations, on Economic Development, Housing and General Affairs, on Finance, and on Government Operations and the House Committees on Appropriations, on Commerce and Economic Development, on Ways and Means, and on Government Operations. The report shall include the following:

(1) the amount of the subsidies associated with lending through each credit facility authorized by the General Assembly and established by the Treasurer;

(2) a description of the Advisory Committee's activities; and

(3) any information gathered by the Advisory Committee on the State's unmet capital needs, and other opportunities for State support for local investment and the community.

* * * Medicaid for Working People with Disabilities * * *

Sec. G.1. 33 V.S.A. § 1902 is amended to read:

§ 1902. QUALIFICATION FOR MEDICAL ASSISTANCE

(a) In determining whether a person is medically indigent, the Secretary of Human Services shall prescribe and use an income standard and requirements for eligibility which will permit the receipt of federal matching funds under Title XIX of the Social Security Act.

(b) Workers with disabilities whose income is less than 250 percent of the federal poverty level shall be eligible for Medicaid. The income also must not exceed the Medicaid protected income level for one or the Supplemental Security Income (SSI) payment level for two, whichever is higher, after disregarding all earnings of the working individual with disabilities, any Social Security disability insurance benefits, and any veteran's disability benefits. Earnings of the working individual with disabilities shall be documented by evidence of Federal Insurance Contributions Act tax payments, Self-Employment Contributions Act tax payments, or a written business plan

approved and supported by a third-party investor or funding source. The resource limit for this program shall be ~~$5,000.00~~ $10,000.00 for an individual and ~~$6,000.00~~ $15,000.00 for a couple at the time of enrollment in the program. Assets attributable to earnings made after enrollment in the program shall be disregarded.

* * * Vermont Employment Growth Incentive * * *

Sec. H.1. 32 V.S.A. chapter 105 is added to read:

CHAPTER 105. VERMONT EMPLOYMENT GROWTH INCENTIVE PROGRAM

Subchapter 1. Vermont Economic Progress Council

§ 3325. VERMONT ECONOMIC PROGRESS COUNCIL

(a) Creation. The Vermont Economic Progress Council is created to exercise the authority and perform the duties assigned to it, including its authority and duties relating to:

(1) the Vermont Employment Growth Incentive Program pursuant to subchapter 2 of this chapter; and

(2) tax increment financing districts pursuant to 24 V.S.A. chapter 53, subchapter 5 and section 5404a of this title.

(b) Membership.

(1) The Council shall have 11 voting members:

(A) nine residents of the State appointed by the Governor with the advice and consent of the Senate who are knowledgeable and experienced in the subjects of community development and planning, education funding requirements, economic development, State fiscal affairs, property taxation, or entrepreneurial ventures and represent diverse geographical areas of the State and municipalities of various sizes;

(B) one member of the Vermont House of Representatives appointed by the Speaker of the House; and

(C) one member of the Vermont Senate appointed by the Senate Committee on Committees.

(2)(A) The Council shall have two regional members from each region of the State, one appointed by the regional development corporation of the region and one appointed by the regional planning commission of the region.

(B) A regional member shall be a nonvoting member and shall serve during consideration by the Council of an application from his or her region.

(c) Terms.

(1) Members of the Council appointed by the Governor shall serve initial staggered terms with five members serving four-year terms, and four members serving two-year terms.

(2) After the initial term expires, a member's term is four years and a member may be reappointed.

(3) A term commences on April 1 of each odd-numbered year.

(d) Compensation.

(1) For attendance at a meeting and for other official duties, a member appointed by the Governor shall be entitled to compensation for services and reimbursement of expenses as provided in section 1010 of this title, except that a member who is a member of the General Assembly shall be entitled to compensation for services and reimbursement of expenses as provided in 2 V.S.A. § 406.

(2) A regional member who does not otherwise receive compensation and reimbursement of expenses from his or her regional development or planning organization shall be entitled to compensation and reimbursement of expenses for attendance at meetings and for other official duties as provided in section 1010 of this title.

(e) Operation.

(1) The Governor shall appoint a chair from the Council's members.

(2) The Council shall receive administrative support from the Agency of Commerce and Community Development and the Department of Taxes.

(3) The Council shall have:

(A) an executive director appointed by the Governor with the advice and consent of the Senate who is knowledgeable in subject areas of the Council's jurisdiction and who is an exempt State employee; and

(B) administrative staff.

(f) Rulemaking authority. The Council shall have the authority to adopt policies and procedures as necessary, and to adopt rules under 3 V.S.A. chapter 25, to implement the provisions of this chapter.

(g) Decisions not subject to review. A decision of the Council to approve or deny an application under subchapter 2 of this chapter, or to approve or deny a tax increment financing district pursuant to 24 V.S.A. chapter 53, subchapter 5 and section 5404a of this title, is an administrative decision that is

not subject to the contested case hearing requirements under 3 V.S.A. chapter 25 and is not subject to judicial review.

§ 3326. COST-BENEFIT MODEL

(a) The Council shall adopt and maintain a cost-benefit model for assessing and measuring the projected net fiscal cost and benefit to the State of proposed economic development activities.

(b) The Council shall not modify the cost-benefit model without the prior approval of the Joint Fiscal Committee.

Subchapter 2. Vermont Employment Growth Incentive Program

§ 3330. PURPOSE; FORM OF INCENTIVES; ENHANCED INCENTIVES ELIGIBLE APPLICANT

(a) Purpose. The purpose of the Vermont Employment Growth Incentive Program is to encourage a business to add incremental and qualifying payroll, jobs, and capital investments by sharing with the business a portion of the revenue generated by the new payroll, new jobs, and new capital investments, thereby generating net new revenues to the State.

(b) Form of incentives; enhanced incentives.

(1) The Vermont Economic Progress Council may approve an incentive under this subchapter in the form of a direct cash payment in annual installments.

(2) The Council may approve the following enhanced incentives:

(A) an enhanced incentive for a business in a labor market area with higher than average unemployment or lower than average wages pursuant to section 3334 of this title;

(B) an enhanced incentive for an environmental technology business pursuant to section 3335 of this title; and

(C) an enhanced incentive for a business that participates in a State workforce training program pursuant to section 3336 of this title.

(c) Eligible applicant. Only a business may apply for an incentive pursuant to this subchapter.

§ 3331. DEFINITIONS

As used in this subchapter:

(1) "Award period" means the consecutive five years during which a business may apply for an incentive under this subchapter.

(2) "Base employment" means the number of full-time Vermont jobs held by non-owner employees as of the date a business with an approved application commences its proposed economic activity.

(3) "Base payroll" means the Vermont gross salaries and wages paid as compensation to full-time Vermont jobs held by non-owner employees as of the date a business with an approved application commences its proposed economic activity.

(4) "Capital investment performance requirement" means the minimum value of additional investment in one or more capital improvements.

(5) "Jobs performance requirement" means the minimum number of qualifying jobs a business must add.

(6) "Labor market area" means a labor market area as designated by the Vermont Department of Labor.

(7) "Non-owner" means a person with no more than 10 percent ownership interest, including attribution of ownership interests of the person's spouse, parents, spouse's parents, siblings, and children.

(8) "Payroll performance requirement" means the minimum value of Vermont gross salaries and wages a business must pay as compensation for one or more qualifying jobs.

(9) "Qualifying job" means a new, permanent position in Vermont that meets each of the following criteria:

(A) The position is filled by a non-owner employee who regularly works at least 35 hours each week.

(B) The business provides compensation for the position that equals or exceeds the wage threshold.

(C) The business provides for the position at least three of the following:

(i) health care benefits with 50 percent or more of the premium paid by the business;

(ii) dental assistance;

(iii) paid vacation;

(iv) paid holidays;

(v) child care;

(vi) other extraordinary employee benefits;

(vii) retirement benefits;

(viii) other paid time off, including paid sick days.

(D) The position is not an existing position that the business transfers from another facility within the State.

(E) When the position is added to base employment, the business's total employment exceeds its average annual employment during the two preceding years, unless the Council determines that the business is establishing a significantly different, new line of business and creating new jobs in the new line of business that were not part of the business prior to filing its application.

(10) "Utilization period" means each year of the award period and the four years immediately following each year of the award period.

(11) "Vermont gross wages and salaries" means Medicare wages as reported on Federal Tax Form W-2 to the extent those wages are Vermont wages, excluding income from nonstatutory stock options.

(12) "Wage threshold" means the minimum amount of annualized Vermont gross wages and salaries a business must pay for a qualifying job, as required by the Council in its discretion, but not less than:

(A) 60 percent above the State minimum wage at the time of application; or

(B) for a business located in a labor market area in which the average annual unemployment rate is higher than the average annual unemployment rate for the State, 40 percent above the State minimum wage at the time of application.

§ 3332. APPLICATION; APPROVAL CRITERIA

(a) Application.

(1) A business may apply for an incentive in one or more years of an award period by submitting an application to the Council in the format the Council specifies for that purpose.

(2) For each award year the business applies for an incentive, the business shall:

(A) specify a payroll performance requirement;

(B) specify a jobs performance requirement or a capital investment performance requirement, or both; and

(C) provide any other information the Council requires to evaluate the application under this subchapter.

(b) Mandatory criteria. The Council shall not approve an application unless it finds:

(1) Except as otherwise provided for an enhanced incentive for a business in a qualifying labor market area under section 3334 of this title, the new revenue the proposed activity generates to the State exceeds the costs of the activity to the State.

(2) The host municipality welcomes the new business.

(3) The proposed economic activity conforms to applicable town and regional plans.

(4) If the business proposes to expand within a limited local market, an incentive would not give the business an unfair competitive advantage over other Vermont businesses in the same or similar line of business and in the same limited local market.

(5) But for the incentive, the proposed economic activity:

(A) would not occur; or

(B) would occur in a significantly different manner that is significantly less desirable to the State.

§ 3333. CALCULATING THE VALUE OF AN INCENTIVE

Except as otherwise provided for an enhanced incentive for a business in a qualifying labor market area under section 3334 of this title, an enhanced incentive for an environmental technology business under section 3335 of this title, or an enhanced incentive for workforce training under section 3336 of this title, the Council shall calculate the value of an incentive for an award year as follows:

(1) Calculate new revenue growth. To calculate new revenue growth, the Council shall use the cost-benefit model created pursuant to section 3326 of this title to determine the amount by which the new revenue generated by the proposed economic activity to the State exceeds the costs of the activity to the State.

(2) Calculate the business's potential share of new revenue growth. Except as otherwise provided for an environmental technology business in section 3335 of this title, to calculate the business's potential share of new revenue growth, the Council shall multiply the new revenue growth determined under subdivision (1) of this subsection by 80 percent.

(3) Calculate the incentive percentage. To calculate the incentive percentage, the Council shall divide the business's potential share of new

revenue growth by the sum of the business's annual payroll performance requirements.

(4) Calculate qualifying payroll. To calculate qualifying payroll, the Council shall subtract from the payroll performance requirement the projected value of background growth in payroll for the proposed economic activity.

(5) Calculate the value of the incentive. To calculate the value of the incentive, the Council shall multiply qualifying payroll by the incentive percentage.

(6) Calculate the amount of the annual installment payments. To calculate the amount of the annual installment payments, the Council shall:

(A) divide the value of the incentive by five; and

(B) adjust the value of the first installment payment so that it is proportional to the actual number of days that new qualifying employees are employed in the first year of hire.

§ 3334. ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING LABOR MARKET AREA

(a) The Council may increase the value of an incentive for a business that is located in a labor market area in which:

(1) the average annual unemployment rate is greater than the average annual unemployment rate for the State; or

(2) the average annual wage is less than the average annual wage for the State.

(b) In each calendar year, the amount by which the Council may increase the value of all incentives pursuant to this section is:

(1) $1,500,000.00 for one or more initial approvals; and

(2) $1,000,000.00 for one or more final approvals.

(c) The Council may increase the cap imposed in subdivision (b)(2) of this section by not more than $500,000.00 upon application to, and approval of, the Emergency Board.

(d) In evaluating the Council's request, the Board shall consider the economic and fiscal condition of the State, including recent revenue forecasts and budget projections.

(e) The Council shall provide the Board with testimony, documentation, company-specific data, and any other information the Board requests to

demonstrate that increasing the cap will create an opportunity for return on investment to the State.

§ 3335. ENHANCED INCENTIVE FOR ENVIRONMENTAL TECHNOLOGY BUSINESS

(a) As used in this section, an "environmental technology business" means a business that:

(1) is subject to income taxation in Vermont; and

(2) seeks an incentive for economic activity in Vermont that the Secretary of Commerce and Community Development certifies is primarily research, design, engineering, development, or manufacturing related to one or more of the following:

(A) waste management, including waste collection, treatment, disposal, reduction, recycling, and remediation;

(B) natural resource protection and management, including water and wastewater purification and treatment, air pollution control and prevention or remediation, soil and groundwater protection or remediation, and hazardous waste control or remediation;

(C) energy efficiency or conservation;

(D) clean energy, including solar, wind, wave, hydro, geothermal, hydrogen, fuel cells, waste-to-energy, or biomass.

(b) The Council shall consider and administer an application from an environmental technology business pursuant to the provisions of this subchapter, except that:

(1) the business's potential share of new revenue growth shall be 90 percent; and

(2) to calculate qualifying payroll, the Council shall:

(A) determine the background growth rate in payroll for the applicable business sector in the award year;

(B) multiply the business's full-time payroll for the award year by 20 percent of the background growth rate; and

(C) subtract the product from the payroll performance requirement for the award year.

§ 3336. ENHANCED INCENTIVE FOR WORKFORCE TRAINING

(a) A business whose application is approved may elect to claim the incentive specified for an award year as an enhanced training incentive by:

(1) notifying the Council of its intent to pursue an enhanced training incentive and dedicate its incentive funds to training through the Vermont Training Program; and

(2) applying for a grant from the Vermont Training Program to perform training for one or more new employees who hold qualifying jobs.

(b) If a business is awarded a grant for training under this section, the Agency of Commerce and Community Development shall disburse grant funds for on-the-job training of 75 percent of wages for each employee in training or 75 percent of trainer expense, and the business shall be responsible for the remaining 25 percent of the applicable training costs.

(c) A business that successfully completes its training shall submit a written certificate of completion to the Agency of Commerce and Community Development which shall notify the Department of Taxes.

(d) Upon notification by the Agency, and if the Department determines that the business has earned the incentive for the award year, it shall:

(1) disburse to the business a payment in an amount equal to 25 percent of the cost for training expenses pursuant to subsection (b) of this section;

(2) disburse to the Agency of Commerce and Community Development a payment in an amount equal to 25 percent of the cost for training expenses pursuant to subsection (b) of this section; and

(3) disburse the remaining value of the incentive in annual installments pursuant to section 3337 of this title.

§ 3337. EARNING AN INCENTIVE

(a) Earning an incentive; installment payments.

(1) A business with an approved application earns the incentive specified for an award year if, within the applicable time period provided in this section, the business:

(A) maintains or exceeds its base payroll and base employment;

(B) meets or exceeds the payroll performance requirement specified for the award year; and

(C) meets or exceeds the jobs performance requirement specified for the award year, or the capital investment performance requirement specified for the award year, or both.

(2) A business that earns an incentive specified for an award year is eligible to receive an installment payment for the year in which it earns the incentive and for each of the next four years in which the business:

(A) maintains or exceeds its base payroll and base employment;

(B) maintains or exceeds the payroll performance requirement specified for the award year; and

(C) if the business earns an incentive by meeting or exceeding the jobs performance target specified for the award year, maintains or exceeds the jobs performance requirement specified for the award year.

(b) Award year one.

(1) For award year one, a business has from the date it commences its proposed economic activity through December 31 of that year, plus two additional years, to meet the performance requirements specified for award year one.

(2) A business that does not meet the performance requirements specified for award year one within this period becomes ineligible to earn incentives for the award year and for all remaining award years in the award period.

(c) Award years two and three.

(1) For award year two and award year three, beginning on January 1 of the award year, a business has three years to meet the performance requirements specified for the award year.

(2) A business that does not meet the performance requirements specified for award year two or for award year three within three years becomes ineligible to earn incentives for the award year and for all remaining award years in the award period.

(d) Extending the earning period in award years one and two. Notwithstanding subsection (b) of this section:

(1) Upon request, the Council may extend the period to earn an incentive for award year one or award year two if it determines:

(A) a business did not earn the incentive for the award year due to facts or circumstances beyond its control; and

(B) there is a reasonable likelihood the business will earn the incentive within the extended period.

(2) The Council may extend the period to earn an incentive:

(A) for award year one, by two years, reviewed annually; or

(B) for award year two, by one year.

(3) If the Council extends the period to earn an incentive, it shall recalculate the value of the incentive using the cost-benefit model and shall adjust the amount of the incentive as is necessary to account for the extension.

(e) Award year four.

(1) Beginning on January 1 of award year four, a business that remains eligible to earn incentives has two years to meet the performance requirements specified for award year four.

(2) A business that does not meet the performance requirements specified for award year four within two years becomes ineligible to earn incentives for award year four and award year five.

(f) Award year five.

(1) Beginning on January 1 of award year five, a business that remains eligible to earn incentives has one year to meet the performance requirements specified for award year five.

(2) A business that does not meet the performance requirements specified for award year five by the end of that award year becomes ineligible to earn the incentive specified for that award year.

(g) Carrying forward growth that exceeds targets. If a business exceeds one or more of the payroll performance requirement, the jobs performance requirement, or the capital investment performance requirement specified for an award year, the business may apply the excess payroll, excess jobs, and excess capital investment toward the performance requirement specified for a future award year, provided that the business maintains the excess payroll, excess jobs, or excess capital investment into the future award year.

§ 3338. CLAIMING AN INCENTIVE; ANNUAL FILING WITH DEPARTMENT OF TAXES

(a) On or before April 30 following each year of the utilization period, a business with an approved application shall submit an incentive claim to the Department of Taxes.

(b) A business shall include the information the Department requires, including the information required in section 5842 of this title and other documentation concerning payroll, jobs, and capital investment necessary to determine whether the business earned the incentive specified for an award year and any installment payment for which the business is eligible.

(c) The Department may consider an incomplete claim to be timely filed if the business files a complete claim within the additional time allowed by the Department in its discretion.

(d) Upon finalizing its review of a complete claim, the Department shall:

(1) notify the business and the Council whether the business is entitled to an installment payment for the applicable year; and

(2) make an installment payment to which the business is entitled.

(e) The Department shall not pay interest on any amounts it holds or pays for an incentive or installment payment pursuant to this subchapter.

§ 3339. RECAPTURE; REDUCTION; REPAYMENT

(a) Recapture.

(1) The Department of Taxes may recapture the value of one or more installment payments a business has claimed, with interest, if:

(A) the business fails to file a claim as required in section 3338 of this title; or

(B) during the utilization period, the business experiences:

(i) a 90 percent or greater reduction from base employment; or

(ii) if it had no jobs at the time of application, a 90 percent or greater reduction from the sum of its job performance requirements.

(2) If the Department determines that a business is subject to recapture under subdivision (1) of this subsection, the business becomes ineligible to earn or claim an additional incentive or installment payment for the remainder of the utilization period.

(3) Notwithstanding any other statute of limitations, the Department may commence a proceeding to recapture amounts under subdivision (1) of this subsection as follows:

(A) under subdivision (1)(A) of this subsection, no later than three years from the last day of the utilization period; and

(B) under subdivision (1)(B) of this subsection, no later than three years from date the business experiences the reduction from base employment, or three years from the last day of the utilization period, whichever occurs first.

(b) Reduction; recapture. If a business fails to make capital investments that equal or exceed the sum of its capital investment performance requirements by the end of the award period:

(1) The Department shall:

(A) calculate a reduced incentive by multiplying the combined value of the business's award period incentives by the same proportion that the

business's total actual capital investments bear to the sum of its capital investment performance requirements; and

(B) reduce the value of any remaining installment payments for which the business is eligible by the same proportion.

(2) If the value of the installment payments the business has already received exceeds the value of the reduced incentive, then:

(A) the business becomes ineligible to claim any additional installment payments for the award period; and

(B) the Department shall recapture the amount by which the value of the installment payments the business has already received exceeds the value of the reduced incentive.

(c) Tax liability.

(1) A person who has the duty and authority to remit taxes under this title shall be personally liable for an installment payment that is subject to recapture under this section.

(2) For purposes of this section, the Department of Taxes may use any enforcement or collection action available for taxes owed pursuant to chapter 151 of this title.

§ 3340. REPORTING

(a) On or before September 1 of each year, the Vermont Economic Progress Council and the Department of Taxes shall submit a joint report on the incentives authorized in this subchapter to the House Committees on Ways and Means, on Commerce and Economic Development, and on Appropriations, to the Senate Committees on Finance, on Economic Development, Housing and General Affairs, and on Appropriations, and to the Joint Fiscal Committee.

(b) The Council and the Department shall include in the joint report:

(1) the total amount of incentives authorized during the preceding year;

(2) with respect to each business with an approved application:

(A) the date and amount of authorization;

(B) the calendar year or years in which the authorization is expected to be exercised;

(C) whether the authorization is active; and

(D) the date the authorization will expire; and

(3) the following aggregate information:

(A) the number of claims and incentive payments made in the current and prior claim years;

(B) the number of qualifying jobs; and

(C) the amount of new payroll and capital investment.

(c) The Council and the Department shall present data and information in the joint report in a searchable format.

(d) Notwithstanding any provision of law to the contrary, an incentive awarded pursuant to this subchapter shall be treated as a tax expenditure for purposes of chapter 5 of this title.

§ 3341. CONFIDENTIALITY OF PROPRIETARY BUSINESS INFORMATION

(a) The Vermont Economic Progress Council and the Department of Taxes shall use measures to protect proprietary financial information, including reporting information in an aggregate form.

(b) Information and materials submitted by a business concerning its income taxes and other confidential financial information shall not be subject to public disclosure under the State's public records law in 1 V.S.A. chapter 5, but shall be available to the Joint Fiscal Office or its agent upon authorization of the Joint Fiscal Committee or a standing committee of the General Assembly, and shall also be available to the Auditor of Accounts in connection with the performance of duties under section 163 of this title; provided, however, that the Joint Fiscal Office or its agent and the Auditor of Accounts shall not disclose, directly or indirectly, to any person any proprietary business information or any information that would identify a business except in accordance with a judicial order or as otherwise specifically provided by law.

(c) Nothing in this section shall be construed to prohibit the publication of statistical information, rulings, determinations, reports, opinions, policies, or other information so long as the data are disclosed in a form that cannot identify or be associated with a particular business.

§ 3342. ANNUAL PROGRAM CAP

(a) In each calendar year the Vermont Economic Progress Council may approve one or more incentives under this subchapter, the total value of which shall not exceed:

(1) $15,000,000.00 for one or more initial approvals; and

(2) $10,000,000.00 for one or more final approvals.

(b) The Council may increase the cap imposed in subdivision (a)(2) of this section by not more than $5,000,000.00 upon application to, and approval of, the Emergency Board.

(c) In evaluating the Council's request, the Board shall consider the economic and fiscal condition of the State, including recent revenue forecasts and budget projections.

(d) The Council shall provide the Board with testimony, documentation, company-specific data, and any other information the Board requests to demonstrate that increasing the cap will create an opportunity for return on investment to the State.

Sec. H.2. 10 V.S.A. § 531(d)(2) is amended to read:

(2) disburse grant funds only for training hours that have been successfully completed by employees; provided that, except for an award under an enhanced ~~training~~ incentive for workforce training as provided in ~~32 V.S.A. § 5930b(h)~~ 32 V.S.A. § 3336, a grant for on-the-job training shall either provide not more than 50 percent of wages for each employee in training~~,~~ or not more than 50 percent of trainer expense, but not both, and further provided that training shall be performed in accordance with a training plan that defines the subject of the training, the number of training hours, and how the effectiveness of the training will be evaluated; and

Sec. H.3. 21 V.S.A. § 1314(e)(1) is amended to read:

(e)(1) Subject to such restrictions as the Board may by regulation prescribe, information from unemployment insurance records may be made available to any public officer or public agency of this or any other state or the federal government dealing with the administration or regulation of relief, public assistance, unemployment compensation, a system of public employment offices, wages and hours of employment, workers' compensation, misclassification or miscoding of workers, occupational safety and health, or a public works program for purposes appropriate to the necessary operation of those offices or agencies. The Commissioner may also make information available to colleges, universities, and public agencies of the State for use in connection with research projects of a public service nature, and to the Vermont Economic Progress Council with regard to the administration of ~~32 V.S.A. chapter 151, subchapter 11E~~ 32 V.S.A. chapter 105, subchapter 2; but no person associated with those institutions or agencies may disclose that information in any manner that would reveal the identity of any individual or employing unit from or concerning whom the information was obtained by Commissioner.

* * *

Sec. H.4. 32 V.S.A. § 3102(e)(11) is amended to read:

(11) To the Joint Fiscal Office or its agent, provided that the disclosure relates to a successful business applicant under ~~section 5930a~~ chapter 105, subchapter 2 of this title and the ~~tax~~ incentive it has claimed and is reasonably necessary for the Joint Fiscal Office or its agent to perform the duties authorized by the Joint Fiscal Committee or a standing committee of the General Assembly under ~~subsection 5930a(h)~~ that subchapter; to the Auditor of Accounts for the performance of duties under section 163 of this title; to the Department of Economic Development for the purposes of subsection 5922(f) of this title; and to the Vermont Economic Progress Council, provided that the disclosure relates to a successful business applicant under ~~sections 5930a and 5930b~~ chapter 105, subchapter 2 of this title and the ~~tax~~ incentive it has claimed and is reasonably necessary for the ~~council~~ Council to perform its duties under ~~sections 5930a and 5930b~~ that subchapter.

Sec. H.5. 32 V.S.A. § 5401(10) is amended to read:

(10) "Nonresidential property" means all property except:

* * *

(H) ~~Real property, excluding land, consisting of unoccupied new facilities, or unoccupied facilities under renovation or expansion, owned by a business that has obtained the approval of the Vermont Economic Progress Council under section 5930a of this title that is less than 75 percent complete, not in use as of April 1 of the applicable tax year, and for a period not to exceed two years.~~ [Repealed.]

(I) ~~Real property consisting of the value of remediation expenditures incurred by a business that has obtained the approval of the Vermont Economic Progress Council under section 5930a of this title for the construction of new, expanded or renovated facilities on contaminated property eligible under the redevelopment of contaminated properties program pursuant to 10 V.S.A. § 6615a(f), including supporting infrastructure, on sites eligible for the United States Environmental Protection Agency "Brownfield Program," for a period of 10 years.~~ [Repealed.]

* * *

Sec. H.6. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT FINANCING DISTRICTS

(a) Tax agreements and exemptions affecting the education property tax grand list. A tax agreement or exemption shall affect the education property

tax grand list of the municipality in which the property subject to the agreement is located if the agreement or exemption is:

(1) A prior agreement, meaning that it was:

(A) a tax stabilization agreement for any purpose authorized under 24 V.S.A. § 2741 or comparable municipal charter provisions entered into or proposed and voted by the municipality before July 1, 1997, or a property tax exemption adopted by vote pursuant to chapter 125 of this title or comparable municipal charter provisions before July 1, 1997; or

(B) an agreement relating to property sold or transferred by the New England Power Company of its Connecticut River system and its facilities along the Deerfield River which was warned before September 1, 1997.

(2) A tax stabilization agreement relating to industrial or commercial property entered into under 24 V.S.A. § 2741, or comparable municipal charter provisions ~~or an exemption for the purposes of economic development adopted by vote under sections 3834 (factories; quarries; mines), 3836 (private homes and dwellings), 3837 (airports), or 3838 (hotels) of this title or comparable municipal charter provisions after June 30, 1997 if subsequently approved by the Vermont Economic Progress Council pursuant to this subsection and section 5930a of this title. An agreement or exemption may be approved by the Vermont Economic Progress Council only if it has first been approved by the municipality in which the property is located with respect to the municipal tax liability of the property in that municipality. Any agreement or exemption approved by the Vermont Economic Progress Council may not affect the education tax liability of the property in a greater proportion than the agreement or exemption affects the municipal tax liability of the property. A municipality's approval of an agreement or exemption under this subsection may be made conditional upon approval of the agreement or exemption by the Vermont Economic Progress Council. The legislative body of the municipality in which the property subject to the agreement or exemption is located or the business that is subject to the agreement or exemption may request the Vermont Economic Progress Council to approve an agreement or exemption pursuant to section 5930a of this title. The Council shall also report to the General Assembly on the terms of the agreement or exemption, and the effect of the agreement or exemption on the education property tax grand list of the municipality and of the State. If so approved by the Council, an agreement or exemption shall be effective to reduce the property tax liability of the municipality under this chapter beginning April 1 of the year following approval~~.

(3) An agreement relating to affordable housing, which ~~may be submitted to the council for its approval under subdivision (2) of this~~

~~subsection, or alternatively~~ may be approved under this subdivision by the Commissioner of Taxes upon recommendation of the Commissioner of Housing and Community Affairs provided the agreement provides either for new construction housing projects or rehabilitated preexisting housing projects and secures federal financial participation which may include projects financed with federal low income housing tax credits.

* * *

(b) An agreement affecting the education property tax grand list defined under subsection (a) of this section shall reduce the municipality's education property tax liability under this chapter for the duration of the agreement or exemption without extension or renewal, and for a maximum of 10 years~~, subject to the provisions of subsection 5930b(f) of this title~~. A municipality's property tax liability under this chapter shall be reduced by any difference between the amount of the education property taxes collected on the subject property and the amount of education property taxes that would have been collected on such property if its fair market value were taxed at the equalized nonresidential rate for the tax year.

(c) Tax agreements not affecting the education property tax grand list. A tax agreement shall not affect the education property tax grand list if it is:

(1) A tax exemption adopted by vote of a municipality after July 1, 1997 under chapter 125 of this title, or voted under a comparable municipal charter provision or other provision of law for property owned by nonprofit organizations used for public, pious, or charitable purposes, ~~other than economic development exemptions voted under section 3834, 3836, 3837, or 3838 of this title and approved by the Vermont Economic Progress Council,~~ or exemptions of property of a nonprofit volunteer fire, rescue, or ambulance organization adopted by vote of a municipality.

(2) A tax stabilization agreement relating to agricultural property, ~~forest land~~ forestland, open space land, or alternate energy generating plants entered into after July 1, 1997 by a municipality under 24 V.S.A. § 2741.

(3) A tax stabilization agreement relating to commercial or industrial property entered into after July 1, 1997 by a municipality under 24 V.S.A. § 2741, or a property tax exemption for purposes of economic development adopted by vote after July 1, 1997~~, which has not been approved by the Vermont Economic Progress Council to affect the education grand list under subsection (a)(2) of this section and section 5930a of this title. In granting tax stabilization agreements for commercial or industrial property under 24 V.S.A. § 2741, a municipality shall consider any applicable guidelines established for~~

~~the approval of such stabilization agreements by the Vermont Economic Progress Council established in subsection 5930a(c) of this title~~.

* * *

Sec. H.7. 32 V.S.A. § 5813 is amended to read:

§ 5813. STATUTORY PURPOSES

* * *

(u) The statutory purpose of the ~~Vermont employment growth incentive~~ Vermont Employment Growth Incentive Program in ~~section 5930b~~ chapter 105, subchapter 2 of this title is to~~ provide a cash incentive to encourage quality job growth in Vermont~~ encourage a business to add incremental and qualifying payroll, jobs, and capital investments by sharing with the business a portion of the revenue generated by the new payroll, new jobs, and new capital investments, thereby generating net new revenues to the State.

* * *

Sec. H.8. 32 V.S.A. § 5930ll(a)(1) is amended to read:

(1) "Full-time job" ~~has the same meaning as defined in subdivision 5930b(a)(9) of this title~~ means a permanent position filled by an employee who works at least 35 hours per week.

Sec. H.9. 32 V.S.A. § 9741(39) is amended to read:

(39) Sales of building materials within any three consecutive years in excess of one million dollars in purchase value~~, which may be reduced to $250,000.00 in purchase value upon approval of the Vermont Economic Progress Council pursuant to section 5930a of this title~~, used in the construction, renovation, or expansion of facilities which are used exclusively, except for isolated or occasional uses, for the manufacture of tangible personal property for sale.

Sec. H.10. VERMONT EMPLOYMENT GROWTH INCENTIVE PROGRAM REVIEW

(a) On or before August 15, 2016, the Joint Fiscal Committee shall convene a Vermont Employment Growth Incentive Program Review Group.

(b)(1) For the purpose of addressing the technical issues specified in subdivisions (c)(1)–(6) of this section, the Group shall consist of the following members:

(A) the State legislative economist or a designee of the Joint Fiscal Committee;

(B) the State executive economist;

(C) a policy analyst from the Agency of Commerce and Community Development;

(D) an economic and labor market information chief from the Department of Labor;

(E) a fiscal analyst from the Department of Taxes; and

(F) the Executive Director of the Vermont Economic Progress Council.

(2) For the purpose of addressing the issues in subdivisions (c)(7)–(10) of this section, the Group shall consist of all the members specified in subdivision (1) of this subsection and the following additional members:

(A) a representative of the Vermont Regional Development Corporations appointed by the Secretary of Commerce and Community Development;

(B) a representative of the business community designated by the Governor; and

(C) a member of the public designated jointly by the Speaker of the House and the Senate Committee on Committees.

(c) The Group shall review the following questions relating to the Vermont Employment Growth Incentive Program:

(1) whether the cost-benefit model is the most current and appropriate tool for evaluating fiscal impacts of the Program and whether it is effectively utilized;

(2) whether the inputs to the cost-benefit model should be adjusted for those applicants who assert that but for the incentive the scale or timing of the project would change;

(3) whether the Program can integrate the use of business-specific background growth rates in addition to, or in place of, industry-specific background growth rates; and, if industry-specific background growth rates are recommended, a methodology to review, calculate, and set those rates routinely;

(4) whether differential rates in annual average wages or annual average unemployment, defined by labor market area, are appropriate triggers for an incentive enhancement for projects located in, or lower wage threshold for jobs created in, qualifying labor market areas, and whether the margins of error in

annual labor market area wage and unemployment rates are within an acceptable range of tolerance for this use;

(5) whether the enhanced incentives available under the program are appropriate and necessary, including:

(A) an analysis of the growth in the environmental technology sector in Vermont as defined in the enhanced incentive for environmental technology business and whether growth in this sector obviates the need for the current enhancement;

(B) whether the State should forego additional net fiscal benefit under the enhancements and whether the policy objectives of the enhancements are met;

(6) whether and how to include a mechanism in the Program for equity investments in incentive recipients or to recoup incentive payments in the event an incentive recipient is sold;

(7) how to most effectively ensure, through the application and award process, that recipients of VEGI incentives are in compliance with all federal and State water quality and air quality laws and regulations;

(8) the size, industry, and profile of the businesses that historically have experienced, and are forecasted to experience, the most growth in Vermont, and whether the Program can be more targeted to these businesses;

(9) changes to the Program to ensure incentives will benefit the creation and growth of more small businesses; and

(10) whether additional applicant and program data reporting and transparency could be accomplished without damage to applicant businesses.

(d) On or before January 15, 2018, the Group shall report its findings, conclusions, recommendations, and supporting data for legislative action to the House Committees on Commerce and Economic Development, on Ways and Means, and on Appropriations, and to the Senate Committees on Economic Development, Housing and General Affairs, on Finance, and on Appropriations.

Sec. H.11. EXTENSION OF CURRENT VEGI STATUTE; TRANSITION

Sec. 3(c) of No. 184 of the Acts of the 2005 Adj. Sess. (2006), as amended by Sec. 2 of No. 52 of the Acts of 2011, and as further amended by 2012 Acts and Resolves No. 143, Sec. 20, is amended to read:

(c) Beginning April 1, 2009, the economic incentive review board is authorized to grant payroll-based growth incentives pursuant to the Vermont employment growth incentive program established by Sec. 9 of this act.

Unless extended by act of the General Assembly, as of ~~July 1, 2017~~ January 1, 2018, no new Vermont employment growth incentive (VEGI) awards under 32 V.S.A. § 5930b may be made. Any VEGI awards granted prior to ~~July 1, 2017~~ January 1, 2018 may remain in effect until used and shall be governed by the provisions of 32 V.S.A chapter 105.

Sec. H.12. PROSPECTIVE REPEAL OF CURRENT VEGI STATUTE

32 V.S.A. §§ 5930a and 5930b are repealed.

* * * Blockchain Technology * * *

Sec. I.1. 12 V.S.A. § 1913 is added to read:

§ 1913. BLOCKCHAIN ENABLING

(a) In this section, "blockchain technology" means a mathematically secured, chronological, and decentralized consensus ledger or database, whether maintained via Internet interaction, peer-to-peer network, or otherwise.

(b) Presumptions and admissibility.

(1) Extrinsic evidence of authenticity as a condition precedent to admissibility in a Vermont court is not required for a record maintained by a valid application of blockchain technology.

(2) The following presumptions apply:

(A) A fact or record verified through a valid application of blockchain technology is authentic.

(B) The date and time of the recordation of the fact or record established through such a blockchain is the date and time that the fact or record was added to the blockchain.

(C) The person established through such a blockchain as the person who made such recordation is the person who made the recordation.

(3) A presumption does not extend to the truthfulness, validity, or legal status of the contents of the fact or record.

(4) A person against whom the fact operates has the burden of producing evidence sufficient to support a finding that the presumed fact, record, time, or identity is not authentic as set forth on the date added to the blockchain, but the presumption does not shift to a person the burden of persuading the trier of fact that the underlying fact or record is itself accuate in what it purports to represent.

(c) Without limitation, the presumption established in this section shall apply to a fact or record maintained by blockchain technology to determine:

(1) contractual parties, provisions, execution, effective dates, and status;

(2) the ownership, assignment, negotiation, and transfer of money, property, contracts, instruments, and other legal rights and duties;

(3) identity, participation, and status in the formation, management, record keeping, and governance of any person;

(4) identity, participation, and status for interactions in private transactions and with a government or governmental subdivision, agency, or instrumentality;

(5) the authenticity or integrity of a record, whether publicly or privately relevant; and

(6) the authenticity or integrity of records of communication.

(d) The provisions of this section shall not create or negate:

(1) an obligation or duty for any person to adopt or otherwise implement blockchain technology for any purpose authorized in this section; or

(2) the legality or authorization for any particular underlying activity whose practices or data are verified through the application of blockchain technology.

* * * Regulation of Lodging Accommodations * * *

Sec. J.1. STUDY; INTERNET-BASED LODGING

On or before January 15, 2017, the Department of Taxes, the Department of Health, the Department of Tourism and Marketing, the Department of Financial Regulation, and the Division of Fire Safety within the Department of Public Safety, engaging interested stakeholders as necessary, shall:

(1) review the provisions of law within their subject matter jurisdiction, and enforcement of those provisions if any, applicable to Internet-based lodging accommodations businesses; and

(2) report its findings, conclusions, and any recommendations for administrative action or legislative action, or both, to the House Committees on Commerce and Economic Development and on Ways and Means, and to the Senate Committees on Finance and on Economic Development, Housing and General Affairs.

* * * State Workforce Development Board * * *

Sec. K.1. 10 V.S.A. chapter 22A is amended to read:

CHAPTER 22A. WORKFORCE EDUCATION AND TRAINING

§ 540. WORKFORCE EDUCATION AND TRAINING LEADER

The Commissioner of Labor shall be the leader of workforce education and training in the State, and shall have the authority and responsibility for the coordination of workforce education and training within State government, including the following duties:

(1) Perform the following duties in consultation with the State Workforce ~~Investment~~ Development Board:

* * *

§ 541a. STATE WORKFORCE ~~INVESTMENT~~ DEVELOPMENT BOARD

(a) Board established; duties. Pursuant to the requirements of 29 U.S.C. § ~~2821~~ 3111, the Governor shall establish a State Workforce ~~Investment~~ Development Board to assist the Governor in the execution of his or her duties under the Workforce ~~Investment~~ Innovation and Opportunity Act of ~~1998~~ 2014 and to assist the Commissioner of Labor as specified in section 540 of this title.

(b) Additional duties; planning; process. In order to inform its decision-making and to provide effective assistance under subsection (a) of this section, the Board shall:

* * *

(2) maintain familiarity with the federal Comprehensive Economic Development Strategy (CEDS) and other economic development planning processes, and coordinate workforce and education activities in the State, including the development and implementation of the State plan required under the Workforce ~~Investment~~ Innovation and Opportunity Act of ~~1998~~ 2014, with economic development planning processes occurring in the State, as appropriate.

(c) Membership. The Board shall consist of the Governor and the following members who are appointed by the Governor in conformance with the federal Workforce Innovation and Opportunity Act and who serve at his or her pleasure, unless otherwise indicated:

(1) the Commissioner of Labor;

(2) two members of the Vermont House of Representatives appointed by the Speaker of the House;

~~(2)~~(3) two members of the Vermont Senate appointed by the Senate Committee on Committees;

~~(3)~~(4) the President of the University of Vermont ~~or designee~~;

~~(4)~~(5) the Chancellor of the Vermont State Colleges ~~or designee~~;

~~(5)~~(6) the President of the Vermont Student Assistance Corporation ~~or designee~~;

~~(6)~~(7) a representative of an independent Vermont college or university;

~~(7) the Secretary of Education or designee;~~

(8) a director of a regional technical center;

(9) a principal of a Vermont high school;

(10) two representatives of labor organizations who have been nominated by a State labor ~~federations~~ federation;

(11) two representatives of individuals and organizations who have experience with respect to youth activities, as defined in 29 U.S.C. § ~~2801(52)~~ 3102(71);

(12) two representatives of individuals and organizations who have experience in the delivery of workforce investment activities, as defined in 29 U.S.C. § ~~2801(51)~~ 3102(68);

(13) the lead State agency officials with responsibility for the programs and activities carried out by one-stop partners, as described in 29 U.S.C. § ~~2841(b)~~ 3151(b), or if no official has that responsibility, ~~a representative~~ representatives in the State with ~~expertise~~ responsibility relating to these programs and activities;

(14) the Commissioner of Economic Development;

(15) ~~the Commissioner of Labor~~ the Secretary of Commerce and Community Development;

(16) the Secretary of Human Services ~~or designee~~;

(17) the Secretary of Education;

(18) two individuals who have experience in, and can speak for, the training needs of underemployed and unemployed Vermonters; and

~~(18)~~(19) a number of appointees sufficient to constitute a majority of the Board who:

(A) are owners, chief executives, or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority;

(B) represent businesses with employment opportunities that reflect ~~the~~ in-demand sectors and employment opportunities ~~of~~ in the State; and

(C) are appointed from among individuals nominated by State business organizations and business trade associations.

(d) Operation of Board.

(1) Member representation.

(A) A member of the State Board may send a designee that meets the requirements of subdivision (B) of this subdivision (1) to any State Board meeting who shall count towards a quorum and shall be allowed to vote on behalf of the Board member for whom he or she serves as a designee.

(B) Members of the State Board or their designees who represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities.

~~(B)~~(C) The members of the Board shall represent diverse regions of the State, including urban, rural, and suburban areas.

* * *

(6) Reimbursement.

* * *

(B) Unless otherwise compensated by his or her employer for performance of his or her duties on the Board, a nonlegislative member of the Board shall be eligible for per diem compensation of $50.00 per day for attendance at a meeting of the Board, and for reimbursement of his or her necessary expenses, which shall be paid ~~by the Department of Labor solely from~~ through funds available for that purpose under the Workforce ~~Investment~~ Innovation and Opportunity Act of ~~1998~~ 2014.

(7) Conflict of interest. A member of the Board shall not:

* * *

(B) engage in any activity that the Governor determines constitutes a conflict of interest as specified in the State Plan required under 29 U.S.C. § ~~2822~~ 3112 or 3113.

(8) Sunshine provision. The Board shall make available to the public, on a regular basis through open meetings, information regarding the activities of the Board, including information regarding the State Plan adopted pursuant to 29 U.S.C. § ~~2822~~ 3112 or 3113 and prior to submission of the State Plan to the U.S. Secretary of Labor, information regarding membership, and, on request, minutes of formal meetings of the Board.

§ 541b. WORKFORCE EDUCATION AND TRAINING; DUTIES OF OTHER STATE AGENCIES, DEPARTMENTS, AND PRIVATE PARTNERS

(a) To ensure the State Workforce ~~Investment~~ Development Board and the Commissioner of Labor are able to fully perform their duties under this chapter, each agency and department within State government, and each person who receives funding from the State, shall comply within a reasonable period of time with a request for data and information made by the Board or the Commissioner in furtherance of their duties under this chapter.

(b) The Agency of Commerce and Community Development shall coordinate its work in adopting a statewide economic development plan with the activities of the Board and the Commissioner of Labor~~, including the development and implementation of the State Plan for workforce education and training required under the Workforce Investment Act of 1998~~.

§ 542. REGIONAL WORKFORCE EDUCATION AND TRAINING

(a) The Commissioner of Labor, in coordination with the Secretary of Commerce and Community Development, and in consultation with the State Workforce ~~Investment~~ Development Board, is authorized to issue performance grants to one or more persons to perform workforce education and training activities in a region.

* * *

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

* * *

(f) Awards. The Commissioner of Labor, in consultation with the Chair of the State Workforce ~~Investment~~ Development Board, shall develop award criteria and may grant awards to the following:

* * *

§ 544. VERMONT STRONG INTERNSHIP PROGRAM

* * *

(b) The Department of Labor, in collaboration with the Agencies of Agriculture, Food and Markets and of Education, State-funded postsecondary educational institutions, the State Workforce ~~Investment~~ Development Board, and other State agencies and departments that have workforce education and training and training monies, shall:

* * *

Sec. K.2. 10 V.S.A. § 531(a)(1) is amended to read:

(a)(1) The Secretary of Commerce and Community Development, in consultation with the State Workforce ~~Investment~~ Development Board, shall have the authority to design and implement a Vermont Training Program, the purpose of which shall be to issue performance-based grants to employers and to education and training providers to increase employment opportunities in Vermont consistent with this chapter.

Sec. K.3. 16 V.S.A. § 1542(b) is amended to read:

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

* * * Vermont Creative Network * * *

Sec. L.1. VERMONT CREATIVE NETWORK

(a) Creation. The Vermont Arts Council, an independent nonprofit corporation, in collaboration with statewide partners, shall perform the duties specified in this section and establish the Vermont Creative Network, which shall be:

(1) a communications, advocacy, and capacity-building entity that strengthens Vermont's creative sector, utilizes it to enhance Vermonters' quality of life, increases the State's economic vitality; and

(2) based on a collective impact model and shall use Results Based Accountability as a planning and assessment tool.

(b) Outcomes and Indicators.

(1) The outcomes of the Vermont Creative Network are as follows:

(A) The Vermont creative sector enhances Vermonters' quality of life and has a positive economic impact on the State.

(B) Participants in Vermont's creative sector thrive as significant contributors to the State's general and economic well-being.

(C) Participants in Vermont's creative sector effectively share their talents with a broad range of Vermonters and visitors throughout the State.

(D) The creative sector focuses its collective energy on planning and development to advance the creative sector and its contributions to Vermonters' quality of life and the State's economic well-being.

(E) Participants in Vermont's creative sector collaborate to identify, advocate on behalf of, and promote common interests.

(2) Indicators to measure the success of these outcomes include the following:

(A) advancement of quality of life measures;

(B) improvements in planning and development;

(C) increases in workforce development;

(D) increases in economic activity;

(E) inclusion of creativity and innovation in the Vermont brand;

(F) increases in access and equity;

(G) increases in sustainability; and

(H) cross-pollination with other sectors.

(c) Duties. With oversight and support from the Vermont Arts Council, the Vermont Creative Network shall perform the following duties:

(1) On or before June 30, 2017, the Vermont Creative Network shall create, and may update and revise as necessary, a strategic plan that:

(A) identifies and addresses the needs of the creative sector and gaps in the creative sector's infrastructure;

(B) includes a plan to inventory Vermont's creative sector and creative industries based on existing data, studies, and analysis, including:

(i) existing assets, infrastructure, and resources;

(ii) the potential for new creators to enter the local economy, the methods to secure appropriate space and other infrastructure, and the opportunities and barriers to creative labor;

(iii) the types of creative products, services, and industries available in Vermont, and the financial viability of each; and

(iv) the current and potential markets in which Vermont creators can promote, distribute, and sell their products and services.

(2) The Vermont Creative Network shall support regional creativity zones.

(3) The Vermont Creative Network shall identify methods and opportunities to strengthen the links within the sector, including:

(A) advocacy for the use of local arts and cultural resources by Vermont schools, businesses, and institutions;

(B) support for initiatives that improve direct marketing of arts, culture, and creativity to consumers; and

(C) identifying creative financing opportunities for the creative sector.

(d) Authority. To accomplish the goals and perform the duties in this section, the Vermont Creative Network may:

(1) create a Network steering team;

(2) hire or assign staff;

(3) seek and accept funds from private and public entities; and

(4) utilize technical assistance, loans, grants, or other means approved by the Network steering team.

(e) Report.

(1) On or before January 15, 2017, the Vermont Arts Council shall submit a report concerning the activities of the Vermont Creative Network to the Governor and to the General Assembly.

(2) The report shall include a summary of work, including progress toward meeting the program outcomes, information regarding any meetings of the Network steering team, an accounting of all revenues and expenses related to the Network, and recommendations regarding future Network activity.

Sec. L.2. APPROPRIATION

In Fiscal Year 2017, the amount of $35,000.00 is appropriated from the General Fund to the Vermont Arts Council to perform the duties specified in this act.

Sec. L.3. IMPLEMENTATION

Notwithstanding any provision of this act to the contrary, if the General Assembly does not appropriate $35,000.00 or more in funding to the Vermont Arts Council to implement this act, the Council is encouraged, but is not required, to perform the duties specified in Sec. L.1 of this act.

Secs. M.1.–M.2. [Reserved.]

Secs. N.1–N.2. [Reserved.]

* * * Vermont Sustainable Jobs Fund * * *

Sec. O.1. 10 V.S.A. § 328 is amended to read:

§ 328. CREATION OF THE SUSTAINABLE JOBS FUND PROGRAM

(a) There is created a Sustainable Jobs Fund Program to create quality jobs that are compatible with Vermont's natural and social environment.

(b) The Vermont Economic Development Authority shall incorporate a nonprofit corporation pursuant to the provisions of subdivision 216(14) of this title to administer the Sustainable Jobs Fund Program, and to fulfill the purposes of this chapter by means of loans or grants to eligible applicants for eligible activities, provided that any funds contributed to the Program by the Authority under subsection (c) of this section shall be used for lending purposes only.

(c)(1) Notwithstanding the provisions of subdivision 216(14) of this title, the Authority may contribute not more than $1,000,000.00 to the capital of the corporation formed under this section, and the Board of Directors of the corporation formed under this section shall consist of:

(A) the Secretary of Commerce and Community Development or his or her designee;

(B) the Secretary of Agriculture, Food and Markets or his or her designee;

(C) a director appointed by the Governor; and

(D) eight independent directors, no more than two of whom shall be State government employees or officials, and who shall be selected as vacancies occur by vote of the existing directors from a list of names offered by a nominating committee of the Board created for that purpose.

(2)(A) Each independent director shall serve a term of three years or until his or her earlier resignation.

(B) A director may be reappointed, but no independent director and no director appointed by the Governor shall serve for more than three terms.

(C) The director appointed by the Governor shall serve at the pleasure of the Governor and may be removed at any time with or without cause.

(3) A director of the Board who is or is appointed by a State government official or employee shall not be eligible to hold the position of Chair, Vice Chair, Secretary, or Treasurer of the Board.

(d) ~~The Vermont Economic Development Authority may hire or assign a program director to administer, manage, and direct the affairs and business of the Board, subject to the policies, control, and direction of the corporation formed under this section.~~ [Repealed.]

(e) The Agency of Commerce and Community Development shall have the authority and responsibility for the administration and implementation of the Program.

(f) The Vermont Sustainable Jobs Fund Program shall work collaboratively with the Agency of Agriculture, Food and Markets to assist the Vermont slaughterhouse industry in supporting its efforts at productivity and sustainability.

Sec. O.2. 2002 Acts and Resolves No. 142, Sec. 254(a) is amended to read:

(a) ~~All authority and responsibility for the administration and implementation of the sustainable jobs fund and the sustainable jobs program established by chapter 15A of Title 10 is transferred from the Vermont economic development authority to the agency of commerce and community development, secretary's office. The agency shall be the successor to all rights and obligations of the authority in any matter pertaining to the fund and the program on and after July 1, 2002.~~ [Repealed.]

Secs. P.1–P.2. [Reserved.]

* * * Tax Study * * *

Sec. Q.1. [Reserved.]

Sec. Q.2. VERMONT TAX STUDY

(a) The Joint Fiscal Office, with assistance from the Office of Legislative Council, and under the direction of the Joint Fiscal Committee, shall conduct a study of Vermont State taxes.

(b) The study shall:

(1) Analyze historical trends since 2005 in Vermont taxes as compared to other states, and compare the percentage of Vermont revenue from each State-level source to the percentage of revenue from each state-level source in other states.

(2) Analyze State tax burdens per capita, per income level, or by incidence on typical Vermont families of a variety of incomes, and on typical Vermont business enterprises of a variety of sizes and types, and analyze trends in the taxpayer revenue base.

(3) Analyze cross-border tax policies and competitiveness with neighboring states, including impacts on the pattern of retailing, the location of retail activity, and retail market share.

(4) Review the simplicity, equity, stability, predictability and performance of the Vermont's major State revenue sources.

(c) Based upon the data resulting from the study in subsection (b) of this section, the Joint Fiscal Office shall, as part of the study or separately, prepare a review of the future Vermont economic and demographic trends and implications for Vermont's tax structure as regards revenue, equity, and competitiveness.

(d) The Vermont Department of Taxes shall cooperate with and provide assistance as needed to the Joint Fiscal Office.

(e) The Joint Fiscal Office shall submit the study, including recommendations for further research or analysis, to the Joint Fiscal Committee on or before January 15, 2017.

* * * Financial Literacy Commission * * *

Sec. R.1. 9 V.S.A. § 6002(b)(7) is amended to read:

(7) ~~a representative~~ two representatives, each from a nonprofit entity that provides financial literacy and related services to persons with low income:

(A) one appointed by the Governor; and

(B) one appointed by the Office of Economic Opportunity from among candidates proposed by the Community Action Agencies;

* * *

* * * Vermont Enterprise Fund * * *

S.1. REPEAL

2014 Acts and Resolves No. 179, Sec. E.100.5 (Vermont Enterprise Fund) is repealed.

S.2. 10 V.S.A. § 12 is added to read:

§ 12. VERMONT ENTERPRISE FUND

(a) There is created a Vermont Enterprise Fund, the sums of which may be used by the Governor, with the approval of the Emergency Board, for the purpose of making economic and financial resources available to businesses facing circumstances that necessitate State government support and response

more rapidly than would otherwise be available from, or that would be in addition to, other economic incentives.

(b)(1) The Fund shall be administered by the Commissioner of Finance and Management as a special fund under the provisions of chapter 7, subchapter 5 of this title.

(2) The Fund shall contain any amounts transferred or appropriated to it by the General Assembly.

(3) Interest earned on the Fund and any balance remaining at the end of the fiscal year shall remain in the Fund.

(4) The Commissioner shall maintain records that indicate the amount of money in the Fund at any given time.

(c) The Governor is authorized to use amounts available in the Fund to offer economic and financial resources to an eligible business pursuant to this section, subject to approval by the Emergency Board as provided in subsection (e) of this section.

(d) To be eligible for an investment through the Fund, the Governor shall determine that a business:

(1) adequately demonstrates:

(A) a substantial statewide or regional economic or employment impact; or

(B) approval or eligibility for other economic development incentives and programs offered by the State of Vermont; and

(2) is experiencing one or more of the following circumstances:

(A) a merger or acquisition may cause the closing of all or a portion of a Vermont business, or closure or relocation outside Vermont will cause the loss of employment in Vermont;

(B) a prospective purchaser is considering the acquisition of an existing business in Vermont;

(C) an existing employer in Vermont, which is a division or subsidiary of a multistate or multinational company, may be closed or have its employment significantly reduced; or

(D) is considering Vermont for relocation or expansion.

(e)(1) Any economic and financial resources offered by the Governor under this section must be approved by the Emergency Board before an eligible business may receive assistance from the Fund.

(2) The Board shall invite the Chair of the Senate Committee on Economic Development, Housing and General Affairs and the Chair of the House Committee on Commerce and Economic Development to participate in Board deliberations under this section in an advisory capacity.

(3) The Governor or designee shall present to the Emergency Board for its approval:

(A) information on the company;

(B) the circumstances supporting the offer of economic and financial resources;

(C) a summary of the economic activity proposed or that would be forgone:

(D) other State incentives and programs offered or involved;

(E) the economic and financial resources offered by the Governor requiring use of monies from the Fund;

(F) employment, investment, and economic impact of Fund support on the employer, including a fiscal cost-benefit analysis; and

(G) terms and conditions of the economic and financial resources offered, including:

(i) the total dollar amount and form of the economic and financial resources offered;

(ii) employment creation, employment retention, and capital investment performance requirements; and

(iii) disallowance and recapture provisions.

(4) The Emergency Board shall have the authority to approve, disapprove, or modify an offer of economic and financial resources in its discretion, including consideration of the following:

(A) whether the business has presented sufficient documentation to demonstrate compliance with subsection (d) of this section;

(B) whether the Governor has presented sufficient information to the Board under subdivision (3) of this subsection;

(C) whether the business has received other State resources and incentives, and if so, the type and amount; and

(D) whether the business and the Governor have made available to the Board sufficient information and documentation for the Auditor of Accounts to perform a performance audit of the program.

(f)(1) Proprietary business information and materials or other confidential financial information submitted by a business to the State, or submitted by the Governor to the Emergency Board, for the purpose of negotiating or approving economic and financial resources under this section shall not be subject to public disclosure under the State's public records law in 1 V.S.A. chapter 5, but shall be available to the Joint Fiscal Office or its agent upon authorization of the Chair of the Joint Fiscal Committee, and shall also be available to the Auditor of Accounts in connection with the performance of duties under 32 V.S.A. § 163; provided, however, that the Joint Fiscal Office or its agent, and the Auditor of Accounts, shall not disclose, directly or indirectly, to any person any proprietary business or other confidential information or any information which would identify a business except in accordance with a judicial order or as otherwise specifically provided by law.

(2) Nothing in this subsection shall be construed to prohibit the publication of statistical information, rulings, determinations, reports, opinions, policies, or other information so long as the data are disclosed in a form that cannot identify or be associated with a particular business.

(g) On or before January 15 of each year following a year in which economic and financial resources were made available pursuant to this section, the Secretary of Commerce and Community Development shall submit to the House Committees on Commerce and Economic Development and on Ways and Means and to the Senate Committees on Finance and on Economic Development, Housing and General Affairs a report on the resources made available pursuant to this section, including:

(1) the name of the recipient;

(2) the amount and type of the resources;

(3) the aggregate number of jobs created or retained as a result of the resources;

(4) a statement of costs and benefits to the State; and

(5) whether any offer of resources was disallowed or recaptured.

Sec. S.3. APPROPRIATION; VERMONT ENTERPRISE FUND

In fiscal year 2017 the amount of $85,000.00 is appropriated from the General Fund to the Vermont Enterprise Fund created in 10 V.S.A. § 12.

* * * Workforce Housing; Pilot Projects;
Down Payment Assistance Program * * *

Sec. T.1. PURPOSE

The purpose of Sec. T.2 of this act is to promote the creation of workforce housing:

(1) by creating two or more workforce housing pilot projects in targeted areas that benefit from funding for infrastructure improvements;

(2) by funding grants to municipalities so they can pursue designated downtown development districts, designated new town centers, designated growth centers, and designated neighborhood development areas, and by capitalizing on the existing regulatory benefits for these designated areas to promote the creation of new workforce housing; and

(3) by extending the First Time Homebuyer's Down Payment Assistance Program through the Vermont Housing Finance Agency to provide loans to more Vermont employees for down payment assistance and closing costs.

Sec. T.2. WORKFORCE HOUSING PILOT PROJECTS; INFRASTRUCTURE IMPROVEMENTS; APPROPRIATION

(a) Definition. As used in this act, "workforce housing pilot project" means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of owner-occupied housing or rental housing, or both, that meets each of the following:

(1) The project includes 12 or more independent dwelling units, which may be detached or connected.

(2) For a minimum of 25 percent of the total units in the project, the total annual cost of owner-occupied housing, including principal, interest, taxes, insurance, and condominium association fees, and the total annual cost of rental housing, including rent, utilities, and condominium association fees, will not exceed 30 percent of the gross annual income of a household at 80 percent of:

(A) the county median income, as defined by the U.S. Department of Housing and Urban Development; or

(B) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development.

(3) For a minimum of 50 percent of the total units in the project, the total annual cost of owner-occupied housing, including principal, interest, taxes, insurance, and condominium association fees, and the total annual cost of rental housing, including rent, utilities, and condominium association fees, will be between 30 percent of the gross annual income of a household at more

than 80 percent, and 30 percent of the gross annual income of a household at 120 percent, of:

(A) the county median income, as defined by the U.S. Department of Housing and Urban Development; or

(B) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development.

(4) The project will:

(A) be located in a designated downtown development district, designated new town center, designated growth center, or designated neighborhood development area under 24 V.S.A. chapter 76A; or

(B)(i) have a minimum residential density greater than or equal to four single-family detached dwelling units per acre, exclusive of accessory dwelling units as defined in 24 V.S.A. § 4303, or no fewer than the average existing density of the surrounding neighborhood, whichever is greater; and

(ii) the area in which the project is located represents a logical extension of an existing compact settlement pattern and is consistent with smart growth principles as defined in 24 V.S.A. § 2791.

(b) Pilot projects.

(1) Of the amounts appropriated to the Agency of Human Services to replace legacy technologies pursuant to 2010 Acts and Resolves No. 156, Sec. D.106(c)(1), as amended by 2011 Acts and Resolves No. 63, Sec. C.100, the amount of $1,000,000.00 is hereby appropriated to the Vermont Housing and Conservation Board for the purpose of awarding grants to fund infrastructure improvements benefitting two or more workforce housing pilot projects pursuant to this section.

(2) The Board, in consultation with the Department of Housing and Community Development, shall create an application and approval process to select two or more workforce housing pilot projects to provide the funding for all or a portion of infrastructure improvements that benefit the project or projects.

(c) Eligibility.

(1) Not more than one project may be located in a municipality with a population of more than 10,000 full-time residents.

(2) Not more than one project may be located in a single county.

(3) Eligible infrastructure improvements shall include roads, sidewalks, bridges, culverts, water, wastewater, stormwater, and other utilities.

(4) To remain eligible for grant funds, the person developing a project shall complete the project within two years from the effective date of a grant agreement with the Board.

(5) The Board shall give preference to proposals in which some or all of the units required by subdivision (a)(2) of this section are subject to covenants or other restrictions that make them perpetually affordable.

(d) Rescission. Any amounts that remain uncommitted to a pilot project on July 1, 2018 shall revert to the General Fund.

(e) Reports.

(1) On or before December 15, 2016, the Vermont Housing and Conservation Board shall submit an initial report to the House Committees on Commerce and Economic Development and on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs, on action it has taken pursuant to this act, the status of any workforce housing pilot projects, and any recommendations for additional administrative or legislative action.

(2) On or before December 15, 2016, the Agency of Commerce and Community Development shall report to the House Committees on Commerce and Economic Development and on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs on the following:

(A) A review of existing statutes and programs, such as property tax reallocation, that may serve as tools to update existing housing stock.

(B) Data from the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, and the Natural Resources Board with respect to priority housing projects.

(i) For each such project, these agencies shall provide in the report:

(I) Whether the project received an exemption under 10 V.S.A. chapter 151 (Act 250).

(II) The amount of the fee savings under Act 250.

(III) The amount of the fee savings under permit programs administered by the Agency of Natural Resources.

(IV) The cost under 10 V.S.A. § 6093 to mitigate primary agricultural soils and a comparison to what that cost of such mitigation would have been if the project had not qualified as a priority housing project.

(ii) Based on this data, the report shall summarize the benefits provided to priority housing projects.

(iii) In this subdivision (B), "primary agricultural soils" and "priority housing project" have the same meaning as in 10 V.S.A. § 6001.

(C) The results of a process led by the Executive Director of the Vermont Economic Progress Council to engage stakeholders, including representatives of the private lending industry; the private housing development industry; a municipality that has an Tax Increment Financing District; a municipality that has a designated downtown, growth center, or neighborhood development area; a municipality that has a priority housing project; the Department of Housing and Community Development; the Department of Economic Development; the Department of Taxes; and the Vermont Housing and Conservation Board, to investigate alternative municipal infrastructure financing to enable smaller communities to build the needed infrastructure to support mixed-income housing projects in communities around the State.

(3) On or before December 15, 2018, the Vermont Housing and Conservation Board shall submit a final report to the House Committees on Commerce and Economic Development and on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs on action it has taken pursuant to this act, the status of any workforce housing pilot projects, and any recommendations for additional administrative or legislative action.

Sec. T.3. 10 V.S.A. § 303 is amended to read:

§ 303. DEFINITIONS

As used in this chapter:

(1) "Board" means the Vermont Housing and Conservation Board established by this chapter.

(2) "Fund" means the Vermont Housing and Conservation Trust Fund established by this chapter.

(3) "Eligible activity" means any activity which will carry out either or both of the dual purposes of creating affordable housing and conserving and protecting important Vermont lands, including activities which will encourage or assist:

(A) the preservation, rehabilitation, or development of residential dwelling units ~~which~~ that are affordable to:

(i) lower income Vermonters; or

(ii) for owner-occupied housing, Vermonters whose income is less than or equal to 120 percent of the median income based on statistics from State or federal sources;

* * *

Sec. T.4. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

* * *

(g)(1) In any fiscal year, the allocating agency may award up to:

(A) $400,000.00 in total first-year credit allocations to all applicants for rental housing projects, for ~~a total~~ an aggregate limit of $2,000,000.00 over any given five-year period that credits are available under this subdivision (A);

(B) $300,000.00 in total first-year credit allocations for owner-occupied unit financing or down payment loans consistent with the allocation plan, including for new construction and manufactured housing, for ~~a total~~ an aggregate limit of $1,500,000.00 over any given five-year period that credits are available under this subdivision (B).

(2) ~~In fiscal years 2016, 2017, and 2018, the allocating agency may award up to $125,000.00 in total first-year credit allocations for loans through the Down Payment Assistance Program created in subdivision (b)(2) of this section for a total aggregate limit of $375,000.00 over the five-year period that credits are available under this subdivision.~~

In any fiscal year, total first-year credit allocations under subdivision (1) of this subsection plus succeeding-year deemed allocations shall not exceed $3,500,000.00.

(h) ~~The aggregate limit for all credit allocations available under this section in any fiscal year is $3,875,000.00.~~

(1) In fiscal year 2016 through fiscal year 2022, the allocating agency may award up to $125,000.00 in total first-year credit allocations for loans through the Down Payment Assistance Program created in subdivision (b)(2) of this section.

(2) In any fiscal year, total first-year credit allocations under subdivision (1) of this subsection plus succeeding-year deemed allocations shall not exceed $625,000.00.

Secs. U–Y. [Reserved.]

* * * Effective Dates * * *

Sec. Z.1. EFFECTIVE DATES

(a) This section and the following sections shall take effect on passage:

(1) Secs. A.1–A.7 (Vermont Economic Development Authority).

(2) Sec. B.1 (cooperatives; electronic voting).

(3) Sec. E.4 (technical correction to business registration statute).

(4) Sec. G.1 (Medicaid for working people with disabilities).

(5) Sec. Q.2 (tax study).

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

(1) Sec. D.1 (Vermont Training Program).

(2) Secs. F.1–F.9 (Vermont State Treasurer).

(3) Secs. H.10–H.11 (VEGI Working Group review; extension of sunset).

(4) Sec. I.1 (blockchain technology).

(5) Sec. J.1 (Internet-based lodging accommodations study).

(6) Secs. K.1–K.3 (State Workforce Development Board).

(7) Secs. L.1–L.3 (Vermont Creative Network).

(8) Secs. O.1–O.2 (Vermont Sustainable Jobs Fund).

(9) Secs. S.1–S.3 (Vermont Enterprise Fund; appropriation).

(10) Secs. T.1–T.4 (workforce housing; down payment assistance).

(c) The following sections shall take effect on July 1, 2017:

(1) Secs. C.1–C.2 (regional planning and development).

(2) Secs. E.1–E.2 (conversion, merger, share exchange, and domestication of a corporation).

(d)(1) Notwithstanding 1 V.S.A. § 214, Sec. E.3 (technical corrections to LLC Act) shall take effect retroactively as of July 1, 2015, and apply only to:

(A) a limited liability company formed on or after July 1, 2015; and

(B) except as otherwise provided in subdivision (4) of this subsection, a limited liability company formed before July 1, 2015 that elects,

in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this act.

(2) Sec. E.3 does not affect an action commenced, a proceeding brought, or a right accrued before July 1, 2015.

(3) Except as otherwise provided in subdivision (4) of this subsection, Sec. E.3 shall apply to all limited liability companies on and after July 1, 2016.

(4) For the purposes of applying Sec. E.3 to a limited liability company formed before July 1, 2015, for the purposes of applying 11 V.S.A. § 4023 and subject to 11 V.S.A. § 4003, language in the company's articles of organization designating the company's management structure operates as if that language were in the operating agreement.

(e) Sec. R.1 (Financial Literacy Commission) shall take effect on July 2, 2016.

(f) Secs. H.1–H.9 (Vermont Employment Incentive Growth Program) and Sec. H.12 (prospective repeal of current VEGI statute) shall take effect on January 1, 2018.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for April 7, 2016, pages 847-871 and April 8, 2016, page 875)

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

The Committee recommends that the report of the Committee on Economic Development, Housing and General Affairs be amended as follows:

First: By striking out Sec. A.1 (adding one legislative member to VEDA) in its entirety and inserting in lieu thereof: Sec. A.1. [Reserved.]

Second: By striking out Sec. A.5 in its entirety and inserting in lieu thereof a new Sec. A.5 to read:

Sec. A.5. 10 V.S.A. § 234 is amended to read:

§ 234. THE VERMONT JOBS FUND

* * *

(c) Monies in the Fund may be loaned to the Vermont Agricultural Credit Program to support its lending operations as established in chapter 16A of this title at interest rates and on terms and conditions to be set by the Authority to establish a line of credit in an amount not to exceed ~~$60,000,000.00~~

$100,000,000.00 to be advanced to the Vermont Agricultural Credit Program to support its lending operations as established in chapter 16A of this title.

* * *

Third: In Sec. A.6, in 10 V.S.A. § 374a, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) No borrower shall be approved for a loan from the corporation that would result in the aggregate principal balances outstanding of all loans to that borrower exceeding the then-current maximum Farm Service Agency loan guarantee limits, or ~~$2,000,000.00~~ $5,000,000.00, whichever is greater.

Fourth: In Sec. D.1, following the first asterisks and preceding subsection (e), by inserting:

(b) Eligibility for grant. The Secretary of Commerce and Community Development may award a grant to an employer if:

* * *

(2) the employer provides its employees with at least three of the following:

* * *

(H) other paid time off, ~~including~~ excluding paid sick days;

* * *

Fifth: In Sec. H.1, in 32 V.S.A. § 3331(9)(C)(viii), by striking out including and inserting in lieu thereof excluding

Sixth: By striking out Sec. H.10 (VEGI Program Review) in its entirety, redesignating Secs. H.11–H.12 to be Secs. H.10–H.11, and inserting Secs. H.12–H.15 to read:

Sec. H.12. VEGI; REPEAL OF AUTHORITY TO AWARD INCENTIVES

Notwithstanding any provision of law to the contrary, the Vermont Economic Progress Council shall not accept or approve an application for a Vermont Employment Growth Incentive under 32 V.S.A. chapter 105, subchapter 2 on or after January 1, 2022.

Sec. H.13. VERMONT EMPLOYMENT GROWTH INCENTIVE PROGRAM REVIEW

(a) On or before August 15, 2016, the Vermont Economic Progress Council shall convene a Vermont Employment Growth Incentive Program Review Group.

(b) The Group shall consist of the following members:

(1) the Executive Director of the Vermont Economic Progress Council;

(2) a representative of the Vermont Regional Development Corporations appointed by the Secretary of Commerce and Community Development;

(3) a representative of the business community designated by the Governor; and

(4) a member of the public designated jointly by the Speaker of the House and the Senate Committee on Committees.

(c) The Group shall review the following questions relating to the Vermont Employment Growth Incentive Program:

(1) whether the enhanced incentives available under the program are appropriate and necessary, including:

(A) an analysis of the growth in the environmental technology sector in Vermont as defined in the enhanced incentive for environmental technology business and whether growth in this sector obviates the need for the current enhancement; and

(B) whether the State should forego additional net fiscal benefit under the enhancements and whether the policy objectives of the enhancements are met;

(2) whether and how to include a mechanism in the Program for equity investments in incentive recipients;

(3) whether and under what circumstances the Department of Taxes should have, and should exercise, the authority to recapture the value of incentives paid to a business that is subsequently sold or relocated out of the State, or that eliminates qualifying jobs after receiving an incentive;

(4) how to most effectively ensure, through the application and award process, that recipients of VEGI incentives are in compliance with all federal and State water quality and air quality laws and regulations;

(5) the size, industry, and profile of the businesses that historically have experienced, and are forecast to experience, the most growth in Vermont, and whether the Program should be more targeted to these businesses;

(6) changes to the Program to ensure incentives will benefit the creation and growth of more small businesses; and

(7) whether additional applicant and program data reporting and transparency could be accomplished without damage to applicant businesses.

(d) On or before January 15, 2018, the Group shall report its findings, conclusions, recommendations, and supporting data for legislative action to the House Committees on Commerce and Economic Development, on Ways and Means, and on Appropriations, and to the Senate Committees on Economic Development, Housing and General Affairs, on Finance, and on Appropriations.

Sec. H.14. VERMONT EMPLOYMENT GROWTH INCENTIVE PROGRAM; TECHNICAL WORKING GROUP REVIEW

(a) The Joint Fiscal Committee shall convene a Vermont Employment Growth Incentive Program Technical Working Group that shall consist of the following members, as designated by the Committee:

(1) the legislative economist or another designee from the Joint Fiscal Office;

(2) a policy analyst from the Agency of Commerce and Community Development;

(3) an economic and labor market information chief from the Department of Labor; and

(4) a fiscal analyst from the Department of Taxes or the State economist.

(b) The Group shall meet not more than twice and shall review the following questions relating to the Vermont Employment Growth Incentive Program:

(1) whether the cost-benefit model is the most current and appropriate tool for evaluating fiscal impacts of the Program and whether it is effectively utilized;

(2) whether the inputs to the cost-benefit model should be adjusted for those applicants who assert that but for the incentive the scale or timing of the project would change;

(3) whether the Program can integrate the use of business-specific background growth rates in addition to, or in place of, industry-specific background growth rates; and, if industry-specific background growth rates are recommended, a methodology to review, calculate, and set those rates routinely; and

(4) whether differential rates in annual average wages or annual average unemployment, defined by labor market area, are appropriate triggers for an incentive enhancement for projects located in, or lower wage threshold for jobs created in, qualifying labor market areas, and whether the margins of error in

annual labor market area wage and unemployment rates are within an acceptable range of tolerance for this use.

(c) On or before November 15, 2016 the Group shall submit a report of its findings and conclusions to the Joint Fiscal Committee, the VEGI Program Review Group, and the General Assembly.

Sec. H.15. VERMONT EMPLOYMENT GROWTH INCENTIVE PROGRAM; QUALIFYING JOB; BENEFITS; REVIEW

On or before December 15, 2016, the Vermont Economic Progress Council shall consider and report its recommendations to the House Committees on Commerce and Economic Development, on Ways and Means, and on Appropriations, and to the Senate Committees on Economic Development, Housing and General Affairs, on Finance, and on Appropriations, on quantifiable standards for the type, quality, and value of employee benefits that an applicant must offer in order for a new job to count as a "qualifying job" for purposes of the Vermont Employment Growth Incentive Program.

Twelfth: By striking out Sec. Z.1 in its entirety and inserting in lieu thereof a new Sec. Z.1 to read:

Sec. Z.1. EFFECTIVE DATES

(a) This section and the following sections shall take effect on passage:

(1) Secs. A.2–A.7 (Vermont Economic Development Authority).

(2) Sec. B.1 (cooperatives; electronic voting).

(3) Sec. E.4 (technical correction to business registration statute).

(4) Sec. G.1 (Medicaid for working people with disabilities).

(5) Sec. Q.2 (tax study).

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

(1) Sec. D.1 (Vermont Training Program).

(2) Secs. F.1–F.9 (Vermont State Treasurer).

(3) Secs. H.10 (extension of sunset) and H.13–H.15 (program reviews).

(4) Sec. I.1 (blockchain technology).

(5) Sec. J.1 (Internet-based lodging accommodations study).

(6) Secs. K.1–K.3 (State Workforce Development Board).

(7) Secs. L.1–L.3 (Vermont Creative Network).

(8) Secs. O.1–O.2 (Vermont Sustainable Jobs Fund).

(9) Secs. S.1–S.3 (Vermont Enterprise Fund; appropriation).

(10) Secs. T.1–T.4 (workforce housing; down payment assistance).

(c) The following sections shall take effect on July 1, 2017:

(1) Secs. C.1–C.2 (regional planning and development).

(2) Secs. E.1–E.2 (conversion, merger, share exchange, and domestication of a corporation).

(d)(1) Notwithstanding 1 V.S.A. § 214, Sec. E.3 (technical corrections to LLC Act) shall take effect retroactively as of July 1, 2015, and apply only to:

(A) a limited liability company formed on or after July 1, 2015; and

(B) except as otherwise provided in subdivision (4) of this subsection, a limited liability company formed before July 1, 2015 that elects, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this act.

(2) Sec. E.3 does not affect an action commenced, a proceeding brought, or a right accrued before July 1, 2015.

(3) Except as otherwise provided in subdivision (4) of this subsection, Sec. E.3 shall apply to all limited liability companies on and after July 1, 2016.

(4) For the purposes of applying Sec. E.3 to a limited liability company formed before July 1, 2015, for the purposes of applying 11 V.S.A. § 4023 and subject to 11 V.S.A. § 4003, language in the company's articles of organization designating the company's management structure operates as if that language were in the operating agreement.

(e) Sec. R.1 (Financial Literacy Commission) shall take effect on July 2, 2016.

(f) Secs. H.1–H.9 (Vermont Employment Incentive Growth Program) and Secs. H.11–H.12 (prospective repeal of current VEGI statute; prospective repeal of authority to issue award incentives) shall take effect on January 1, 2018.

(Committee vote: 7-0-0)

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

The Committee recommends that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended by the Committee on Finance, with the following amendments thereto:

First: By striking out Secs. L.2–L.3 (appropriation; Vermont Creative Network) in their entireties and inserting in lieu thereof a new Sec. L.2 to read:

Sec. L.2. ALLOCATION OF APPROPRIATIONS TO VERMONT ARTS COUNCIL

Of the amounts appropriated from the General Fund to the Vermont Arts Council in Fiscal Year 2017, the Council shall allocate the amount of $35,000.00 to perform the duties specified in Sec. L.1 of this act (Vermont Creative Network) .

Second: By striking out Secs. S.1–S.3 (Vermont Enterprise Fund) in their entireties and inserting in lieu thereof [Reserved.]

Third: By striking out Secs. T.1–T.2 in their entireties and inserting in lieu thereof new Secs. T.1–T.2 to read:

Sec. T.1. [Reserved.]

Sec. T.2. AFFORDABLE HOUSING; STUDY

On or before December 15, 2016, the Agency of Commerce and Community Development shall report to the House Committees on Commerce and Economic Development and on General, Housing and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs on the following:

(1) A review of existing statutes and programs, such as property tax reallocation, that may serve as tools to update existing housing stock.

(2) Data from the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, and the Natural Resources Board with respect to priority housing projects.

(A) For each such project, these agencies shall provide in the report:

(i) Whether the project received an exemption under 10 V.S.A. chapter 151 (Act 250).

(ii) The amount of the fee savings under Act 250.

(iii) The amount of the fee savings under permit programs administered by the Agency of Natural Resources.

(iv) The cost under 10 V.S.A. § 6093 to mitigate primary agricultural soils and a comparison to what that cost of such mitigation would have been if the project had not qualified as a priority housing project.

(B) Based on this data, the report shall summarize the benefits provided to priority housing projects.

(C) As used in this subdivision (2), "primary agricultural soils" and "priority housing project" have the same meaning as in 10 V.S.A. § 6001.

(3) The results of a process led by the Executive Director of the Vermont Economic Progress Council to engage stakeholders, including representatives of the private lending industry; the private housing development industry; a municipality that has an Tax Increment Financing District; a municipality that has a designated downtown, growth center, or neighborhood development area; a municipality that has a priority housing project; the Department of Housing and Community Development; the Department of Economic Development; the Department of Taxes; and the Vermont Housing and Conservation Board, to investigate alternative municipal infrastructure financing to enable smaller communities to build the needed infrastructure to support mixed-income housing projects in communities around the State.

Fourth: In Sec. Z.1, in subdivision (b)(7) by striking out "L.3" and inserting in lieu thereof L.2 and by striking out subdivisions (b)(9)–(10) in their entireties and inserting in lieu thereof a new subdivision (b)(9) to read:

(9) Secs. T.2–T.4 (workforce housing study; VHCB; down payment assistance).

(Committee vote: 6-0-1)

H. 877.

An act relating to transportation funding.

Reported favorably with recommendation of proposal of amendment by Senator Degree 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, 23 V.S.A. § 3003(e), by striking out "~~less one percent for shrinkage, loss by evaporation, or otherwise,~~" and inserting in lieu thereof the following: less ~~one~~ 0.5 percent for shrinkage, loss by evaporation, or otherwise,

Second: In Sec. 2, 23 V.S.A. § 3015, in subdivision (2), in the third sentence, by striking out "~~less one percent for shrinkage, loss by evaporation or otherwise,~~" and inserting in lieu thereof the following: less ~~one~~ 0.5 percent for shrinkage, loss by evaporation, or otherwise,

Third: In Sec. 3, 23 V.S.A. § 3107, by striking out "~~less one percent for shrinkage, loss by evaporation, or otherwise,~~" and inserting in lieu thereof the

following: less ~~one~~ 0.5 percent for shrinkage, loss by evaporation, or otherwise,

Fourth: After Sec. 1, 23 V.S.A. § 3003(e), by inserting a Sec. 1a to read as follows:

Sec. 1a. 23 V.S.A. § 3003(e) is amended to read:

(e) A distributor may use as the measure of the tax so levied and assessed the gross quantity of diesel fuel purchased, imported, produced, refined, manufactured, and compounded by the distributor, ~~less 0.5 percent for shrinkage, loss by evaporation, or otherwise,~~ instead of the quantity sold, distributed, or used.

Fifth: After Sec. 2, 23 V.S.A. § 3015, by inserting a Sec. 2a to read as follows:

Sec. 2a. 23 V.S.A. § 3015(2) is amended to read:

(2) Except as provided in subdivision 3002(9) of this title, the user's tax shall be determined by multiplying the number of gallons of fuels used in Vermont in motor vehicles operated by the user at the rate per gallon stated in section 3003 for vehicles weighing or registered for 26,001 pounds or more. The taxable gallonage shall be computed on the basis of miles travelled within the State as compared to total miles travelled within and without the State, with the actual method of computation prescribed by the Commissioner. A distributor may use as the measure of the tax so levied and assessed the gross quantity of fuel purchased, imported, produced, refined, manufactured, and compounded by the distributor, ~~less 0.5 percent for shrinkage, loss by evaporation or otherwise,~~ instead of the quantity sold, distributed, or used. From this amount of tax due, there shall be deducted the tax on fuel purchased in this State on which the tax has been previously paid by the user, provided the tax-paid purchases are supported by copies of the sales invoices showing the amount of tax paid. Such copies shall be retained by the taxpayer for a period of not less than three years and shall be available for inspection by the Commissioner or his or her designated agents. If the computation shows additional tax to be due, it shall be remitted with the report filed under section 3014 of this title.

Sixth: After Sec. 3, 23 V.S.A. § 3107, by inserting a Sec. 3a to read as follows:

Sec. 3a. 23 V.S.A. § 3107 is amended to read:

§ 3107. ALTERNATIVE BASIS FOR COMPUTING TAX

A distributor may use as the measure of the tax so levied and assessed the gross quantity of motor fuel purchased, imported, produced, refined,

manufactured, and compounded by the distributor, ~~less 0.5 percent for shrinkage, loss by evaporation, or otherwise,~~ instead of the quantity sold, distributed, or used.

Seventh: In Sec. 4, 32 V.S.A. § 8903 (purchase and use tax cap), by striking out subdivision (a)(2) (purchase tax cap) in its entirety, and inserting in lieu thereof the following:

(2) For any other motor vehicle that is used primarily for commercial or trade purposes, it shall be six percent of the taxable cost of the motor vehicle or ~~$1,850.00~~ $2,075.00 for each motor vehicle, whichever is smaller~~, except that pleasure~~. Pleasure cars ~~which~~ that are purchased, leased, or otherwise acquired for use in short-term rentals shall be subject to taxation under subsection (d) of this section.

Eighth: In Sec. 4, 32 V.S.A. § 8903 (purchase and use tax cap), by striking out subdivision (b)(2) (use tax cap) in its entirety, and inserting in lieu thereof the following:

(2) For any other motor vehicle that is used primarily for commercial or trade purposes, it shall be six percent of the taxable cost of ~~a~~ the motor vehicle, or ~~$1,850.00~~ $2,075.00 for each motor vehicle, whichever is smaller, by a person at the time of first registering or transferring a registration to such motor vehicle payable as hereinafter provided~~, except no~~. No use tax shall be payable hereunder if the tax imposed by subsection (a) of this section has been paid, or the vehicle is a pleasure car ~~which~~ that was purchased, leased, or otherwise acquired for use in short-term rentals, in which case the vehicle shall be subject to taxation under subsection (d) of this section.

Ninth: In Sec. 8, 23 V.S.A. § 304, in subdivision (b)(1), after "upon payment of an annual fee of ~~$45.00~~" by striking out "$50.00" and inserting in lieu thereof $48.00

Tenth: By striking out Sec. 14, 23 V.S.A. § 361, in its entirety and inserting in lieu thereof the following:

Sec. 14. 23 V.S.A. § 361 is amended to read:

§ 361. PLEASURE CARS

The annual fee for registration of any motor vehicle of the pleasure car type~~, and all vehicles powered by electricity,~~ shall be ~~$69.00~~ $74.00, and the biennial fee shall be ~~$127.00~~ $136.00.

Eleventh: After Sec. 14, by adding a Sec. 14a to read as follows:

Sec. 14a. 23 V.S.A. § 361a is added to read:

§ 361a. HYBRID AND ELECTRIC-POWERED PLEASURE CARS

(a) As used in this section:

(1) "Electric vehicle" means a vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system, such as storage batteries or other portable electrical energy storage devices, including hydrogen fuel cells, provided that:

(A) the vehicle is capable of drawing recharge energy from a source off the vehicle, such as residential electric service; and

(B) the vehicle does not have an onboard combustion engine or generator system as a means of providing electrical energy.

(2) "Hybrid vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both an internal combustion engine or heat engine using consumable fuel and a rechargeable energy storage system such as a battery, capacitor, hydraulic accumulator, or flywheel. This includes a plug-in hybrid electric vehicle (PHEV) that is capable of recharging its battery from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

(b) The annual fee for registration of any electric vehicle shall be $114.00, and the biennial fee shall be $210.00.

(c) The annual fee for registration of any hybrid vehicle shall be $94.00, and the biennial fee shall be $173.00.

Twelfth: In Sec. 15, by striking out "$45,000.00" and inserting in lieu thereof $55,320.00

Thirteenth: In Sec. 33, 23 V.S.A. § 517, in the second sentence, after "payment of a", by striking out "$25.00" and inserting in lieu thereof $6.00

Fourteenth: After Sec. 36, 23 V.S.A. § 617, by inserting a Sec. 36a to read as follows:

Sec. 36a. ANATOMICAL GIFT; OPERATORS' LICENSES; REPORT

On or before October 15, 2016, the Commissioner of Motor Vehicles shall submit a report to the House Committee on Ways and Means, the Senate Committee on Finance, and the House and Senate Committees on Transportation on the number of persons who have authorized an anatomical gift at the time of issuance of a driver's license or nondriver identification card pursuant to 18 V.S.A. § 5250e. This report shall include a proposal for implementing in a manner that would have a revenue-neutral result a discount on the license and identification card fees owed under 23 V.S.A. § 115 and 23 V.S.A. chapter 9 for persons who have authorized an anatomical gift.

Fifteenth: In Sec. 42, 23 V.S.A. § 1392, in subdivision (14)(C), in the last sentence, after "The permit fee shall be ~~$10.00~~", by striking out "$13.00" and inserting in lieu thereof $15.00

Sixteenth: In Sec. 42, 23 V.S.A. § 1392, in subdivision (14)(D), in the last sentence, after "The permit fee shall be ~~$10.00~~", by striking out "$13.00" and inserting in lieu thereof $15.00

Seventeenth: In Sec. 45, 23 V.S.A. § 2023(e) (transfer of vehicle to surviving spouse), by striking out subsection (e) in its entirety, and inserting in lieu thereof the following:

(e) Notwithstanding other provisions of the law, whenever the estate of an individual who dies intestate consists principally of an automobile, the surviving spouse shall be deemed to be the owner of the motor vehicle and title to the same shall automatically and by virtue hereof pass to the surviving spouse. ~~Registration and titling of~~ Upon request, the Department shall register and title the vehicle in the name of the surviving spouse~~, shall be effected by payment of a transfer fee of $7.00~~ and no fee shall be assessed. This transaction is exempt from the provisions of the purchase and use tax on motor vehicles.

(1) Notwithstanding other provisions of the law, and except as provided in subdivision (2) of this subsection, whenever the estate of an individual consists in whole or in part of a motor vehicle, and the person's will or other testamentary document does not specifically address disposition of motor vehicles, the surviving spouse shall be deemed to be the owner of the motor vehicle and title to the motor vehicle shall automatically pass to the surviving spouse. ~~Registration and titling of~~ Upon request, the Department shall register and title the vehicle in the name of the surviving spouse~~, shall be effected by payment of a transfer fee of $7.00~~ and no fee shall be assessed. This transaction is exempt from the provisions of the purchase and use tax on motor vehicles.

(2) This subsection shall apply to no more than two motor vehicles, and shall not apply if the motor vehicle is titled in the name of one or more persons other than the decedent and the surviving spouse.

Eighteenth: After Sec. 57, by striking out the reader assistance and by striking out Sec. 58, Effective Date, in its entirety and inserting in lieu thereof a new reader assistance and a new Sec. 58 to read as follows:

* * * Effective Dates * * *

Sec. 58. EFFECTIVE DATES

(a) This section shall take effect on passage.

(b) Secs. 1, 2, and 3 (0.5 percent diesel fuel and gas shrinkage allowance) shall take effect on June 1, 2016.

(c) Secs. 1a, 2a, and 3a (elimination of diesel fuel and gas shrinkage allowance) shall take effect on June 1, 2017.

(d) Sec. 14a (hybrid and electric vehicle registration) shall take effect on July 1, 2017.

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

(Committee vote: 7-0-0)

(No House amendments)

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

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Finance with the following amendment thereto:

In Sec. 14a, 23 V.S.A. § 361a, by striking out Sec. 14a in its entirety, and inserting in lieu thereof the following:

Sec. 14a. 23 V.S.A. § 361a is added to read:

§ 361a. PLUG-IN ELECTRIC HYBRID VEHICLE AND ELECTRIC-POWERED PLEASURE CARS

(a) As used in this section:

(1) "Electric vehicle" means a vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system, such as storage batteries or other portable electrical energy storage devices, provided that:

(A) the vehicle is capable of drawing recharge energy from a source off the vehicle, such as residential electric service; and

(B) the vehicle does not have an onboard combustion engine or generator system as a means of providing electrical energy.

(2) "Plug-In Electric Hybrid Vehicle (PHEV)" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both an internal combustion engine or heat engine using consumable fuel and a rechargeable energy storage system such as a battery, capacitor, hydraulic accumulator, or flywheel that is capable of recharging its battery from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

(b) The annual fee for registration of an electric vehicle shall be $114.00, and the biennial fee shall be $210.00.

(c) The annual fee for registration of a plug-in electric hybrid vehicle shall be $94.00, and the biennial fee shall be $173.00.

(Committee vote: 6-0-1)

House Proposal of Amendment

S. 20

An act relating to establishing and regulating dental therapists.

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. LEGISLATIVE FINDINGS

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

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

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

Subchapter 1. General Provisions

§ 561. DEFINITIONS

As used in this chapter:

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

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

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

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

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

(C) furnishes, supplies, constructs, reproduces, or repairs prosthetic dentures, bridges, appliances, or other structures to be used or worn as

substitutes for natural teeth or adjusts those structures, except on the written prescription of a duly licensed dentist and by the use of impressions or casts made by a duly licensed and practicing dentist;

(D) administers general dental anesthetics;

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

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

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

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

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

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

(8) "General supervision" means:

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

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

§ 562. PROHIBITIONS

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

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

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

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

* * *

§ 565. DISPLAY OF LICENSE OR REGISTRATION

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

* * *

Subchapter 2. Board of Dental Examiners

§ 581. CREATION; QUALIFICATIONS

* * *

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

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

* * *

§ 584. UNPROFESSIONAL CONDUCT

The ~~board~~ Board may refuse to give an examination or issue a license to practice dentistry, to practice as a dental therapist, or to practice dental hygiene or to register an applicant to be a dental assistant and may suspend or revoke any such license or registration or otherwise discipline an applicant, licensee, or registrant for unprofessional conduct. Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a by an applicant or person licensed or registered under this chapter:

* * *

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

* * *

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

* * *

Subchapter 3A. Dental Therapists

§ 611. LICENSE BY EXAMINATION

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

(1) have attained the age of majority;

(2) be a Vermont licensed dental hygienist;

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

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

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

(b) Completion of examination.

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

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

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

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

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

§ 612. LICENSE BY ENDORSEMENT

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

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

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

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

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

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

(b) Notwithstanding the provisions of subdivision 611(a)(2) of this subchapter that require an applicant for dental therapist licensure by examination to be a Vermont licensed dental hygienist, an applicant for dental therapist licensure by endorsement under this section shall not be required to obtain Vermont dental hygienist licensure if the Board determines that the applicant otherwise meets the requirements for dental therapist licensure.

§ 613. PRACTICE; SCOPE OF PRACTICE

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

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

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

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

(3) Exposing radiographs.

(4) Oral evaluation and assessment of dental disease.

(5) Dental prophylaxis.

(6) Mechanical polishing.

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

(8) Pulp vitality testing.

(9) Applying desensitizing medication or resin.

(10) Fabricating athletic mouthguards.

(11) Suture removal.

(12) Changing periodontal dressings.

(13) Brush biopsies.

(14) Administering local anesthetic.

(15) Placement of temporary restorations.

(16) Interim therapeutic restorations.

(17) Placement of temporary and preformed crowns.

(18) Emergency palliative treatment of dental pain in accordance with the other requirements of this subsection.

(19) Formulating an individualized treatment plan, including services within the dental therapist's scope of practice and referral for services outside the dental therapist's scope of practice.

(20) Minor repair of defective prosthetic devices.

(21) Recementing permanent crowns.

(22) Placement and removal of space maintainers.

(23) Prescribing, dispensing, and administering analgesics, anti-inflammatories, and antibiotics, except Schedule II, III, or IV controlled substances.

(24) Administering nitrous oxide.

(25) Fabricating soft occlusal guards, but not for treatment of temporomandibular joint disorders.

(26) Tissue conditioning and soft reline.

(27) Tooth reimplantation and stabilization.

(28) Extractions of primary teeth.

(29) Nonsurgical extractions of periodontally diseased permanent teeth with tooth mobility of +3. A dental therapist shall not extract a tooth if it is unerupted, impacted, fractured, or needs to be sectioned for removal.

(30) Cavity preparation.

(31) Restoring primary and permanent teeth, not including permanent tooth crowns, bridges, veneers, or denture fabrication.

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

(33) Pulpotomies on primary teeth.

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

§ 614. COLLABORATIVE AGREEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 615. APPLICATION OF OTHER LAWS

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

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

§ 616. USE OF DENTAL HYGIENISTS AND DENTAL ASSISTANTS

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

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

§ 617. REFERRALS

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

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

* * *

Subchapter 6. Renewals, Continuing Education, and Fees

§ 661. RENEWAL OF LICENSE

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

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

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

(d) Dentists.

* * *

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

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

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

§ 662. FEES

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

(1) Application

(A) Dentist	$ 225.00
(B) Dental therapist	$ 185.00
(C) Dental hygienist	$ 150.00
~~(C)~~(D) Dental assistant	$ 60.00

(2) Biennial renewal

(A) Dentist	$ 355.00
(B) Dental therapist	$ 225.00
(C) Dental hygienist	$ 125.00
~~(C)~~(D) Dental assistant	$ 75.00

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

* * *

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

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

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

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

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

Sec. 4. BOARD OF DENTAL EXAMINERS; REQUIRED RULEMAKING

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

Sec. 5. [Deleted.]

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

House Proposal of Amendment

S. 132

An act relating to the prohibition of conversion therapy on minors.

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:

* * * Findings * * *

Sec. 1. FINDINGS

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

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

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

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

* * * Conversion Therapy * * *

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

CHAPTER 196. CONVERSION THERAPY

§ 8351. DEFINITIONS

As used in this chapter:

(1) "Conversion therapy" means any practice by a mental health care provider that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to change sexual or romantic attractions or feelings toward individuals of the

same sex or gender. "Conversion therapy" does not include psychotherapies that:

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

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

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

§ 8352. TREATMENT OF MINORS

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

§ 8353. UNPROFESSIONAL CONDUCT

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

* * * Physicians * * *

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

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

* * *

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

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

* * * Osteopathy * * *

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

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

* * *

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

* * * Psychologists * * *

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

§ 3016. UNPROFESSIONAL CONDUCT

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

* * *

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

* * * Clinical Social Workers * * *

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

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

* * *

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

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

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

(a) The following conduct and the conduct set forth in 3 V.S.A. § 129a by a person licensed under this chapter constitutes unprofessional conduct. When

that conduct is by an applicant or a person who later becomes an applicant, it may constitute grounds for denial or discipline of a license:

* * *

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

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

* * * Clinical Mental Health Counselors * * *

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

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

* * *

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

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

* * * Marriage and Family Therapists * * *

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

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

* * *

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

* * * Psychoanalysts * * *

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

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

* * *

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

* * * Naturopathic Physicians * * *

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

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

* * *

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

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

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

House Proposal of Amendment

S. 224

An act relating to warranty obligations of equipment dealers and suppliers.

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. FINDINGS AND INTENT

(a) The General Assembly finds:

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

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

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

(4) There continues to exist a disparity in bargaining power between equipment, snowmobile, and all-terrain vehicle suppliers and the independent dealer network. This disparity in bargaining power enables equipment, snowmobile, and all-terrain vehicle suppliers to compel dealers to execute dealer agreements, related contracts, and addenda that contain terms and conditions that would not routinely be agreed to by the equipment, snowmobile, and all-terrain vehicle dealer if this disparity did not exist. It therefore is in the public interest to enact legislation to prevent unfair or arbitrary treatment of equipment, snowmobile, and all-terrain vehicle dealers by equipment, snowmobile, and all-terrain vehicle suppliers. It is also in the public interest that Vermont consumers, municipalities, businesses, and others that purchase equipment, snowmobiles, and all-terrain vehicles in Vermont have access to a robust independent dealer network to obtain competitive prices when purchasing these items and to obtain warranty, recall, or other repair work.

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

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

CHAPTER 107. EQUIPMENT AND MACHINERY DEALERSHIPS

§ 4071. DEFINITIONS

As used in this chapter:

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

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

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

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

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

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

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

(A) "Inventory" means:

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

(I) tractors;

(II) equipment;

(III) implements;

(IV) machinery;

(V) attachments;

(VI) accessories; and

(VII) repair parts;

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

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

(B) "Inventory" does not include heavy construction equipment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(2) a statement of the reasons for the termination; and~~

~~(3) the date on which the termination shall be effective.~~

TERMINATION OF DEALER AGREEMENT

(a) Requirements for notice.

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

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

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

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

(C) the effective date of termination.

(b) Termination by a supplier for cause.

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

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

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

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

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

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

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

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

(3) After providing an initial notice, the supplier shall work with the dealer in good faith to meet the reasonable marketing or market penetration requirements specified in the notice, including reasonable efforts to provide the dealer with adequate inventory and marketing programs that are substantially the same as those provided to dealers in this State or region, whichever is more appropriate under the circumstances.

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

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

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

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

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

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

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

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

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

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

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

(7) The dealer abandons the business.

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

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

* * *

§ 4074. REPURCHASE TERMS

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

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

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

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

(b) The supplier shall pay the dealer:

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

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

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

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

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

(6) ~~Repurchase at~~ 75 percent of the net cost of specialized repair tools, signage, books, and supplies previously purchased, pursuant to requirements of the supplier and held by the dealer on the date of termination. ~~Specialized repair tools must be unique to the supplier's product line and must be complete and in usable condition.~~

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

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

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

under this section to be made to the dealer as a setoff against any amount owed by the dealer to the supplier.

§ 4075. EXCEPTIONS TO REPURCHASE REQUIREMENT

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

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

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

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

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

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

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

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

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

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

* * *

§ 4077a. ~~PROHIBITED ACTS~~

~~No supplier shall:~~

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

~~(2) condition the sale of any equipment on a requirement that the dealer also purchase any other goods or services, but nothing contained in this chapter~~

~~shall prevent the supplier from requiring the dealer to purchase all parts reasonably necessary to maintain the quality of operation in the field of any equipment used in the trade area;~~

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

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

PROHIBITED ACTS

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

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

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

(b) A supplier shall not condition the sale of inventory on a requirement that the dealer also purchase any other goods or services, provided that a supplier may require a dealer to purchase parts reasonably necessary to maintain inventory used in the dealer's geographic area of responsibility.

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

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

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

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

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

(C) remains in substantial compliance with the supplier's reasonable facility requirements, which shall not include a requirement to provide a

separate facility or personnel for a competing product line or make of inventory.

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

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

§ 4078. WARRANTY OBLIGATIONS

(a) A supplier shall:

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

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

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

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

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

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

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

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

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

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

(g) A supplier violates this section if it:

(1) fails to perform its warranty obligations;

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

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

(h) A supplier shall not:

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

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

§ 4079. REMEDIES

(a) A person damaged as a result of a violation of this chapter may bring an action against the violator in a Vermont court of competent jurisdiction for damages, together with the actual costs of the action, including reasonable attorney's fees, injunctive relief against unlawful termination~~, cancellation, nonrenewal,~~ or substantial change of competitive circumstances, and such other relief as the Court deems appropriate.

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

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

* * *

Sec. 3. APPLICABILITY TO EXISTING DEALER AGREEMENTS

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

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

House Proposal of Amendment

S. 255

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

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

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

~~(11)~~(3) ~~Information~~ information on membership and governing body qualifications~~,~~; a listing of the current governing body members, including each member's name, town of residence, occupation, employer, and job title, and the amount of compensation, if any, for serving on the governing body; and means of obtaining a schedule of meetings of the hospital's governing body, including times scheduled for public participation; and

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

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

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

* * *

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

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

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

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

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

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

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

Sec. 10. RECOMMENDATIONS FOR POTENTIAL ALIGNMENT

(a) The Director of Health Care Reform in the Agency of Administration, in collaboration with the Green Mountain Care Board and the Department of Financial Regulation, shall compare the requirements in federal law applicable to Vermont's accountable care organizations and to the Department of Vermont Health Access in its role as a public managed care organization with the rules adopted in accordance with 18 V.S.A. § 9414(a)(1) as they apply to managed care organizations to identify opportunities for alignment, including alignment of mental health standards. The Director of Health Care Reform shall make recommendations on or before December 15, 2017 to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance on appropriate ways to improve alignment. In preparing his or her recommendations, the Director shall take into consideration the financial and operational implications of alignment and shall consult with interested stakeholders, including the Department of Health, the Department of Mental Health, health care providers, accountable care organizations, the Office of the Health Care Advocate, the Vermont Association of Hospitals and Health Systems, the Vermont Medical Society, and health insurance and managed care organizations, as defined in 18 V.S.A. § 9402.

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

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

(2) a physician under the direction of the Department's Chief Medical Officer is involved in the review whenever authorization for health care

services other than mental health or substance abuse services is denied or when payment is stopped for health care services already being provided;

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

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

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

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

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

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

(1) study the prevalence of chronic disease;

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

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

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

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

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

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

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

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

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

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

§ 5087. ESTABLISHMENT OF BIRTH INFORMATION NETWORK

* * *

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

(1) vital records (birth, death, and fetal death certificates);

(2) the children with special health needs database;

(3) newborn metabolic screening;

(4) a voluntary developmental screening test;

(5) universal newborn hearing screening;

~~(5)~~(6) the Hearing Outreach Program;

~~(6)~~(7) the cancer registry;

~~(7)~~(8) the lead screening registry;

~~(8)~~(9) the immunization registry;

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

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

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

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

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

* * *

Sec. 14. CONGENITAL HEART DEFECT SCREENING; RULEMAKING

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

Sec. 15. EFFECTIVE DATES

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

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

House Proposal of Amendment to Senate Proposal of Amendment

H. 512

An act relating to adequate shelter of dogs and cats

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

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

(f) Tethering of dog.

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

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

(3) A tether used for any dog shall be attached to both the dog and the anchor using swivels or similar devices that prevent the tether from becoming entangled or twisted. The tether shall be attached to a well-fitted collar or harness on the dog. The tether shall be of a size and weight that will not cause discomfort to a tethered dog. A choke collar shall not be used as part of a tethering method. The tether system shall function properly regardless of snow depth.

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

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

House Proposal of Amendment to Senate Proposal of Amendment

H. 761

An act relating to cataloguing and aligning health care performance measures

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

In Sec. 1, in the first sentence before the words "the Vermont Medical Society" by inserting the Agency of Human Services and

NOTICE CALENDAR

Second Reading

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)

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

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

By striking out Secs. 7 (18 V.S.A. § 4247) and 8 (effective dates) in their entirety and inserting in lieu thereof the following:

* * * Animal Cruelty * * *

Sec. 7. 24 V.S.A. § 1943 is added to read:

§ 1943. ANIMAL CRUELTY INVESTIGATION ADVISORY BOARD

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

(1) the Commissioner of Public Safety or designee;

(2) the Executive Director of State's Attorneys and Sheriffs or designee;

(3) the Secretary of Agriculture, Food and Markets or designee;

(4) the Commissioner of Fish and Wildlife or designee;

(5) two members to represent the interests of organizations dedicated to promoting the welfare of animals;

(6) three members to represent the interests of law enforcement;

(7) a member to represent the interests of humane officers working with companion animals;

(8) a member to represent the interests of humane officers working with large animals (livestock);

(9) a member to represent the interests of dog breeders and associated groups;

(10) a member to represent the interests of veterinarians;

(11) a member to represent the interests of the Criminal Justice Training Council;

(12) a member to represent the interests of sportsmen and women; and

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

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

(c) The Board shall have the following duties:

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

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

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

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

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

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

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

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

(9) develop an animal cruelty investigation certification program for humane officers in accordance with 13 V.S.A. § 356, and provide a means by which a person who has been actively engaged in this State as a humane officer conducting animal cruelty investigations for at least five years preceding July 1, 2016 shall be eligible for certification without completion of the certification program requirements;

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

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

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

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

Sec. 8. 20 V.S.A. § 2365b is added to read:

§ 2365b. ANIMAL CRUELTY RESPONSE TRAINING

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

Sec. 9. 13 V.S.A. § 356 is added to read:

§ 356. HUMANE OFFICER REQUIRED TRAINING

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

Sec. 10. 13 V.S.A. § 354 is amended to read:

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

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

* * *

Sec. 11. DEPARTMENT OF CORRECTIONS; ANIMAL CARE PILOT PROGRAM

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

* * * Training Safety Subcommittee * * *

Sec. 12. 29 V.S.A. § 842 is added to read:

§ 842. TRAINING SAFETY SUBCOMMITTEE; RECOMMENDATIONS; GOVERNANCE COMMITTEE REPORT

(a) Subcommittee creation. There is created as a subcommittee of the Training Center Governance Committee the Training Safety Subcommittee to make recommendations regarding training safety at the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont (Training Center).

(b) Subcommittee membership. The Subcommittee shall be composed of seven members.

(1) Four of these members shall be members of the Training Center Governance Committee, appointed by the Committee as follows:

(A) two shall represent the Vermont Police Academy; and

(B) two shall represent the Vermont Fire Academy.

(2) The remaining three members shall be as follows:

(A) the Commissioner of Labor or designee;

(B) the Risk Management Manager of the Office of Risk Management within the Agency of Administration; and

(C) one employee of the Vermont League of Cities and Towns who specializes in risk management, appointed by the Executive Director of the League.

(c) Subcommittee recommendations. The Subcommittee shall annually:

(1) on or before February 1, review the safety records of the Training Center; and

(2) on or before July 1, submit to the Training Center Governance Committee its recommendations regarding how training safety at the Training Center could be improved.

(d) Governance Committee review and report.

(1) The Training Center Governance Committee shall review and consider the recommendations made by the Subcommittee under subsection (c) of this section.

(2) Annually, on or before January 15, the Governance Committee shall report to the General Assembly regarding:

(A) any training safety issues it has discovered at the Training Center and any steps it has taken to remedy those issues; and

(B) whether the Governance Committee has instituted any of the Subcommittee's recommendations for training safety and if not, the reasons therefor.

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

Sec. 13. INITIAL TRAINING SAFETY SUBCOMMITTEE MEETING AND INITIAL TRAINING CENTER GOVERNANCE COMMITTEE REPORT

(a) The Chair of the Training Center Governance Committee shall call the initial meeting of the Training Safety Subcommittee set forth in 29 V.S.A. § 842 in Sec. 12 of this act to be held on or before February 1, 2017.

(b) The Training Center Governance Committee shall make its initial report to the General Assembly described in 29 V.S.A. § 842(d) in Sec. 12 of this act on or before January 15, 2018.

* * * Effective Dates * * *

Sec. 14. EFFECTIVE DATES

This act shall take effect on passage, except Secs. 6 (13 V.S.A. § 352a) through 11 (Department of Corrections; animal care pilot program) shall take effect on July 1, 2016.

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

An act relating to law enforcement, 911 call taking, dispatch, animal cruelty, and training safety

(Committee vote: 5-0-2)

H. 278.

An act relating to selection of the Adjutant and Inspector General.

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

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

Sec. 1. 2 V.S.A. § 12 is amended to read:

§ 12. LEGISLATIVE ELECTIONS; UNIFORM BALLOTS

(a) Whenever there is a known contested election for Speaker of the House of Representatives~~,~~ or for President Pro Tempore of the Senate, and in elections by the joint assembly of the ~~Legislature~~ General Assembly, the Secretary of State shall prepare a ballot for each office, listing the names of the known candidates for the office in the alphabetical order of their surnames and leaving thereon sufficient blank spaces to take care of any nominations from the floor.

(b) A candidate for office shall, not later than one week preceding the election, notify the Secretary of State in writing of his or her candidacy, naming the particular office. If he or she fails so to notify the Secretary of State, his or her name shall not be printed on the ballot. No ballot may be used other than the official ballot provided by the Secretary of State.

(c)(1) A candidate for Adjutant and Inspector General shall:

(A) be a resident of Vermont;

(B) have attained the rank of lieutenant colonel (O-5) or above;

(C) be a current member of the U.S. Army, the U.S. Air Force, the U.S. Army Reserve, the U.S. Air Force Reserve, the Army National Guard, or the Air National Guard, or be eligible to return to active service in the Army National Guard or the Air National Guard; and

(D) be a graduate of a Senior Service College, currently be enrolled in a Senior Service College, or be eligible to be enrolled in a Senior Service College during the biennium in which the candidate would first be appointed.

(2) A candidate for Adjutant and Inspector General shall, at the time he or she notifies the Secretary of State of his or her candidacy pursuant to subsection (b) of this section, certify under oath to the Secretary that he or she meets the qualifications set forth in subdivision (1) of this subsection.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 25, 2016, page 282)

Reported without recommendation by Senator Starr for the Committee on Appropriations.

(Committee voted: 5-0-2)

H. 355.

An act relating to licensing and regulating foresters.

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

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

Sec. 1. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

An Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(35) ~~[Repealed.]~~ Foresters

* * *

Sec. 2. 26 V.S.A. chapter 95 is added to read:

CHAPTER 95. FORESTERS

Subchapter 1. General Provisions

§ 4901. PURPOSE AND EFFECT

In order to implement State policy and safeguard the public welfare, a person shall not engage in the practice of forestry unless currently licensed under this chapter.

§ 4902. DEFINITIONS

As used in this chapter:

(1) "Director" means the Director of the Office of Professional Regulation.

(2) "Disciplinary action" means any action taken against a licensee for unprofessional conduct.

(3) "Forester" means a person who is licensed to practice forestry under this chapter.

(4)(A) "Forestry" means the science, art, and practice of creating, managing, using, and conserving forests and associated resources to meet desired goals, needs, and values, including timber management, wildlife management, biodiversity management, and watershed management. Forestry science consists of those biological, physical, quantitative, managerial, and social sciences that are applied to forest management. Forestry services include investigations, consultations, timber inventory, and appraisal, development of forest management plans, and responsible supervision of forest management or other forestry activities on public or private lands.

(B) "Forestry" does not include services for the physical implementation of cutting, hauling, handling, or processing of forest products or for the physical implementation of silvicultural treatments and practices.

(5) "License" means a current authorization granted by the Director permitting the practice of forestry pursuant to this chapter.

(6) "SAF" means the Society of American Foresters.

§ 4903. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

(1) sell or fraudulently obtain or furnish any forestry degree, diploma, certificate of registration, license, or any other related document or record or to aid or abet in so doing;

(2) practice forestry under cover of any degree, diploma, registration, license, or related document or record illegally or fraudulently obtained, or signed or issued unlawfully or under fraudulent representation;

(3) practice forestry unless licensed to do so under the provisions of this chapter;

(4) represent himself or herself as being licensed in this State to practice forestry or use in connection with a name any words, letters, signs, or figures that imply that a person is a forester when not licensed under this chapter; or

(5) practice forestry during the time a license issued under this chapter is suspended or revoked.

(b) Any person violating this section shall be subject to the penalties provided in 3 V.S.A. § 127.

§ 4904. EXEMPTIONS

This chapter does not prohibit:

(1) An individual or a college or university in this State from practicing forestry on his, her, or its own lands.

(2) The practice of any other occupation or profession by a person duly licensed or otherwise authorized under the laws of this State.

(3) The carrying out of forest practices as an employee of a forester when acting under the general supervision of that forester. As used in this subdivision, "general supervision" means the forester need not be on-site when the employee provides the forest practices, but shall maintain continued involvement in and accept professional responsibility for the aspects of each forest practice the employee performs.

(4) Unlicensed professional activities within or relating to forests, if such activities do not involve the application of forestry principles or judgment and do not require forestry education, training, and experience to ensure competent performance.

Subchapter 2. Administration

§ 4911. DUTIES OF THE DIRECTOR

(a) The Director shall:

(1) provide general information to applicants for licensure as foresters;

(2) receive applications for licensure and provide licenses to applicants qualified under this chapter;

(3) provide standards and approve education programs for applicants and for the benefit of foresters who are reentering practice following a lapse of five or more years;

(4) administer fees as established by law;

(5) refer all disciplinary matters to an administrative law officer;

(6) renew, revoke, and reinstate licenses as ordered by an administrative law officer; and

(7) explain appeal procedures to licensed foresters and to applicants, and complaint procedures to the public.

(b) The Director may adopt rules necessary to perform his or her duties under this section.

§ 4912. ADVISOR APPOINTEES

(a)(1) The Secretary of State shall appoint three foresters for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to forestry. One of the initial appointments shall be for less than a five-year term.

(2) An appointee shall have not less than ten years' experience as a forester immediately preceding appointment; shall be licensed as a forester in Vermont; and shall be actively engaged in the practice of forestry in this State during incumbency.

(b) The Director shall seek the advice of the forestry advisor appointees in carrying out the provisions of this chapter.

Subchapter 3. Licenses

§ 4921. QUALIFICATIONS FOR LICENSURE

Applicants for licensure shall qualify under one of the following paths to licensure:

(1) Possession of a bachelor's degree, or higher, in forestry from a program approved by the Director, satisfactory completion of two years of the

SAF Certified Forester experience requirements, and passage of the SAF Certified Forester examination, which may include a State portion if required by the Director by rule.

(2) Possession of a bachelor's degree, or higher, in a forestry-related field from a program approved by the Director, satisfactory completion of three years of the SAF Certified Forester experience requirements, and passage of the SAF Certified Forester examination, which may include a State portion if required by the Director by rule.

(3) Possession of an associate degree in forestry from a program approved by the Director, satisfactory completion of four years of the SAF Certified Forester experience requirements, and passage of the SAF Certified Forester examination, which may include a State portion if required by the Director by rule.

(4) Possession of a valid registration or license to engage in the practice of forestry issued by the appropriate regulatory authority of a state, territory, or possession of the United States, or the District of Columbia, based on requirements and qualifications shown by the application to be equal to or greater than the requirements of this chapter. Such an applicant may be examined on forestry matters peculiar to Vermont and may be granted a license at the discretion of the Director.

§ 4922. APPLICATIONS FOR LICENSURE

Applications for licensure shall be on forms provided by the Director. Each application shall contain a statement under oath showing the applicant's education, forestry experience, and other pertinent information required by the Director. Applications shall be accompanied by the required fee.

§ 4923. ISSUANCE OF LICENSES

The Director shall issue a license, upon payment of the fees prescribed in this chapter, to any applicant who has satisfactorily met all the requirements of this chapter.

§ 4924. RENEWALS

(a) Licenses shall be renewed every two years upon payment of the renewal fee.

(b) Biennially, the Director shall provide notice to each licensee of license expiration and renewal requirements. Upon receipt of the completed form and the renewal fee, the Director shall issue a new license.

(c) As a condition of renewal, the Director shall require that a licensee establish that he or she has completed continuing education, as approved by the Director, of 24 hours for each two-year renewal period.

(d) The Director may reinstate the license of an individual whose license has expired upon payment of the required fee and reinstatement penalty, provided the individual has satisfied all the requirements for renewal, including continuing education.

§ 4925. LICENSE AND RENEWAL FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

§ 4926. UNPROFESSIONAL CONDUCT

(a) The Director may deny an application for licensure or relicensure; revoke or suspend any license to practice forestry issued under this chapter; or discipline or in other ways condition the practice of a licensee upon due notice and opportunity for hearing in compliance with the provisions of 3 V.S.A. chapter 25 if the person engages in the following conduct or the conduct set forth in 3 V.S.A. § 129a:

(1) has made or caused to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license to practice forestry;

(2) whether or not committed in this State, has been convicted of a crime related to the practice of forestry or a felony that evinces an unfitness to practice forestry;

(3) is unable to practice forestry competently by reason of any cause;

(4) has willfully or repeatedly violated any of the provisions of this chapter;

(5) is habitually intemperate or is addicted to the use of habit-forming drugs capable of impairing the exercise of professional judgment;

(6) has a mental, emotional, or physical disability, the nature of which interferes with the ability to practice forestry competently;

(7) engages in conduct of a character likely to deceive, defraud, or harm the public; or

(8) aiding, abetting, encouraging, or negligently causing a violation of the statutes or rules of the Vermont Department of Forests, Parks and Recreation.

(b) Any person or institution aggrieved by any action of the Director under this section may appeal as provided in 3 V.S.A. § 130a.

(c) A person shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Director about incompetent, unprofessional, or unlawful conduct of a forester.

Sec. 3. TRANSITIONAL PROVISIONS; ADVISOR APPOINTEES; LICENSING OF CURRENT FORESTERS

(a) Advisor appointees. Notwithstanding the provision of 26 V.S.A. § 4912 in Sec. 2 of this act that requires an advisor appointee to be a licensed forester in Vermont, an initial advisor appointee may be in the process of applying for licensure as a forester in this State if he or she otherwise is eligible for licensure as a forester under this act.

(b) Licensing of current foresters.

(1) The Director of the Office of Professional Regulation shall establish a procedure whereby an individual who can demonstrate a record of full-time forestry practice for at least eight of the ten years immediately preceding the effective date of Sec. 2 of this act may become licensed as a forester:

(A) without examination, if he or she possesses one of the degrees described in 26 V.S.A. § 4921(1)–(3) (qualifications for licensure) in Sec. 2 of this act;

(B) without possessing a degree described in 26 V.S.A. § 4921(1)–(3) in Sec. 2 of this act, if he or she passes the Society of American Foresters (SAF) Certified Forester Examination, which may include a State portion if required by the Director by rule; or

(C) without examination or possession of one of the degrees described in 26 V.S.A. § 4921(1)–(3) in Sec. 2 of this act, if he or she is determined by the Director, after due consultation with the advisor appointees, to have demonstrated through a peer-review process and production of such documentation as the Director may require, that he or she possesses forestry competencies commensurate to those of an individual eligible for licensure pursuant to Sec. 2 of this act.

(2) In addition to the ability of an individual to become licensed as a forester under the provisions of subdivision (1) of this subsection, an individual shall be eligible for expedited licensure if he or she is an SAF Certified Forester, active and in good standing.

(3) Any person licensed under this section shall thereafter be eligible for license renewal pursuant to 26 V.S.A. § 4924.

(4) The ability of a person to become licensed under the provisions of this section shall expire on January 1, 2018.

Sec. 4. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1 (amending 3 V.S.A. § 122) and 2 (adding 26 V.S.A. chapter 95) shall take effect on July 1, 2016.

(Committee vote: 3-2-0)

(For House amendments, see House Journal for May 5, 2015, page 1556)

Reported favorably by Senator Lyons for the Committee on Finance.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

(Committee vote: 5-2-0)

H. 562.

An act relating to professions and occupations regulated by the Office of Professional Regulation and to the review of professional regulation.

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:

* * * Professional Regulation Review * * *

Sec. 1. 26 V.S.A. chapter 57 is amended to read:

CHAPTER 57. REVIEW OF ~~LICENSING STATUTES, BOARDS, AND COMMISSIONS~~ REGULATORY LAWS

§ 3101. POLICY AND PURPOSE

(a) It is the policy of the ~~state~~ State of Vermont that regulation be imposed upon a profession or occupation solely for the purpose of protecting the public. The ~~legislature~~ General Assembly believes that all individuals should be permitted to enter into a profession or occupation unless there is a demonstrated need for the ~~state~~ State to protect the interests of the public by restricting entry into the profession or occupation.

(b) If such a need is identified, the form of regulation adopted by the ~~state~~ State shall be the least restrictive form of regulation necessary to protect the

public interest. If regulation is imposed, the profession or occupation may be subject to ~~periodic~~ review by the ~~legislature~~ Office of Professional Regulation and the General Assembly to ~~insure~~ ensure the continuing need for and appropriateness of such regulation.

§ 3101a. DEFINITIONS

~~The definitions contained in this section shall apply throughout~~ As used in this chapter, unless the context clearly requires otherwise:

(1) "Certification" means a voluntary process by which a statutory regulatory entity grants to ~~an individual,~~ a person who has met certain prerequisite qualifications~~,~~ the right to assume or to use the title of the profession or occupation, or the right to assume or use the term "certified" in conjunction with the title. Use of the title or the term "certified," as the case may be, by a person who is not certified is unlawful.

(2) "Licensing" and "licensure" mean a process by which a statutory regulatory entity grants to ~~an individual,~~ a person who has met certain prerequisite qualifications~~,~~ the right to perform prescribed professional ~~and~~ or occupational tasks and to use the title of the profession or occupation. Practice without a license is unlawful.

(3) "License" means an individual, nontransferable authorization to carry on an activity based on qualifications such as:

(A) satisfactory completion of or graduation from an accredited or approved educational or training program; ~~and~~ or

(B) acceptable performance on a qualifying examination or series of examinations.

(4) "Office" means the Office of Professional Regulation.

(5) "Practitioner" means ~~an individual~~ a person who is actively engaged in a specified profession or occupation.

~~(5)~~(6) "Public member" means an individual who has no material financial interest in the profession or occupation being regulated other than as a consumer.

~~(6)~~(7) "Registration" means a process ~~which requires~~ requiring that, prior to rendering services, ~~all practitioners~~ a practitioner formally notify a regulatory entity of ~~their~~ his, her, or its intent to engage in the profession or occupation. Notification may include the name and address of the practitioner, the location of the activity to be performed, and a description of the service to be provided.

(8) "Regulatory entity" means the statutory entity responsible for regulating a profession or occupation, such as a board or an agency of the State.

~~(7)~~(9) "Regulatory law" ~~as used in section 3104 of this title,~~ means any law in this State that requires a person engaged in a profession or occupation to be registered, certified, or licensed ~~under this title or 4 V.S.A. chapter 23~~ or that otherwise regulates the operation of that profession or occupation.

§ 3102. ~~PERIODIC REVIEW REQUIREMENT~~

~~(a) Each licensing law enumerated below in subsection (b) of this section, each board related thereto, and the activities resulting shall be subject to review, at least once, in the manner provided in section 3104 of this title and on the basis of the criteria in section 3105 of this title.~~

~~(b) The following laws are subject to review:~~

~~(1) Chapter 15 of this title on electricians;~~

~~(2) Chapter 39 of this title on plumbers and plumbing;~~

~~(3) Chapter 28 of this title on nursing;~~

~~(4) Chapter 10 of this title on chiropractic;~~

~~(5) Chapter 6 of this title on barbers;~~

~~(6) Chapter 6 of this title on cosmeticians and hairdressers;~~

~~(7) Chapter 23 of this title on medicine and surgery;~~

~~(8) Chapter 33 of this title on osteopathic physicians and surgeons;~~

~~(9) Chapter 13 of this title on dentists and dental hygienists;~~

~~(10) 18 V.S.A. chapter 46 on nursing home administrators;~~

~~(11) Chapter 17 of this title on embalmers;~~

~~(12) Chapter 21 of this title on funeral directors;~~

~~(13) Chapter 44 of this title on veterinary science;~~

~~(14) Chapter 1 of this title on accountants;~~

~~(15) Chapter 59 of this title on private detectives;~~

~~(16) Chapter 55 of this title on psychologists;~~

~~(17) Chapter 36 of this title on pharmacy;~~

~~(18) Chapter 51 of this title on radiological technologists;~~

~~(19) Chapter 41 of this title on real estate brokers and salesmen;~~

~~(20) Chapter 20 of this title on engineering;~~

~~(21) Chapter 3 of this title on architects;~~

~~(22) Chapter 45 of this title on land surveyors;~~

~~(23) Chapter 31 of this title on physicians' assistants;~~

~~(24) Chapter 7 of this title on podiatry;~~

~~(25) 4 V.S.A. chapter 23 on attorneys;~~

~~(26) Chapter 47 of this title on opticians;~~

~~(27) Chapter 65 of this title on clinical mental health counselors;~~

~~(28) Chapter 67 of this title on hearing aid dispensers;~~

~~(29) Chapter 79 of this title on tattooists;~~

~~(30) Chapter 81 of this title on naturopathic physicians;~~

~~(31) Chapter 83 of this title on athletic trainers;~~

~~(32) Chapter 87 of this title on audiologists and speech-language pathologists.~~

~~(c) Any new law to regulate another profession or occupation shall be based on the relevant criteria and standards in section 3105 of this title.~~ [Repealed.]

§ 3104. PROCESS FOR REVIEW OF REGULATORY LAWS

(a) ~~Either house of the general assembly may designate, by resolution,~~ The Office may review a regulatory law ~~or an issue that affects professions and occupations generally to be reviewed by the legislative council staff~~ that is within its jurisdiction, and shall review any regulatory law within or outside its jurisdiction upon the request of the House or Senate Committee on Government Operations. The ~~staff~~ Office shall base its review on the criteria and standards set forth in section 3105 of this ~~title~~ chapter.

(b) The review ~~may~~ shall also include the following inquiries in the discretion of the Office or in response to a Committee request:

(1) the extent to which ~~the board's~~ a regulatory entity's actions have been in the public interest and consistent with legislative intent;

(2) the extent to which the ~~board's rules are complete, concise, and easy to understand~~ profession's historical performance, including the actual history of complaints and disciplinary actions in Vermont, indicates that the costs of regulation are justified by the realized benefits to the public;

(3) the extent to which the ~~board's standards and procedures are fair and reasonable and accurately measure an applicant's qualifications~~ scope of the existing regulatory scheme for the profession is commensurate to the risk of harm to the public;

(4) the extent to which the profession's education, training, and examination requirements for a license or certification are consistent with the public interest;

(5) ~~the way in which the board receives, investigates, and resolves complaints from the public~~ the extent to which a regulatory entity's resolutions of complaints and disciplinary actions have been effective to protect the public;

~~(5)~~(6) the extent to which ~~the board~~ a regulatory entity has sought ideas from the public and from those it regulates, concerning reasonable ways to improve the service of the ~~board~~ entity and the profession or occupation regulated;

~~(6)~~(7) the extent to which ~~the board~~ a regulatory entity gives adequate public notice of its hearings and meetings and encourages public participation;

~~(7)~~(8) whether ~~the board~~ a regulatory entity makes efficient and effective use of its funds~~,~~ and meets its responsibilities; and

~~(8)~~(9) whether ~~the board~~ a regulatory entity has sufficient funding to carry out its mandate.

(c)(1) The ~~legislative council staff~~ Office shall give adequate notice to the public, the ~~board~~ applicable regulatory entity, and the appropriate professional societies that it is reviewing a particular regulatory law and ~~board~~, as applicable, that regulatory entity. Notice to the ~~board~~ regulatory entity and the professional societies shall be in writing.

(2) ~~All~~ The regulatory entity shall provide to the Office the information ~~required under~~ described in section 3107 of this ~~title~~ chapter and available data ~~reasonably requested~~ the Office requests for purposes of the review ~~shall be provided by the boards~~.

(3) The ~~staff~~ Office shall seek comments and information from the public and from members of the profession or occupation. It also shall give the ~~board~~ regulatory entity a chance to present its position and to respond to any matters raised in the review.

(4) The ~~staff~~ Office, upon its request, shall have assistance from the ~~department of finance and management~~ Department of Finance and Management, the ~~auditor of accounts~~ Auditor of Accounts, the ~~attorney general, the director of the office of professional regulation~~ Attorney General,

the ~~joint fiscal committee~~ Joint Fiscal Committee, or any other ~~state~~ State agency.

(d)(1) The ~~legislative council staff~~ Office shall file a separate written report for each review with the ~~speaker of the house and president of the senate and with the chairman of the appropriate house or senate committee as provided in subsection (f) of this section~~ House and Senate Committees on Government Operations, any legislative committees of jurisdiction for the underlying field of regulation, and the applicable regulatory entity. The reports shall contain:

~~(1)~~(A) findings, alternative courses of action, and recommendations~~,~~;

~~(2)~~(B) a copy of the ~~board's~~ regulatory entity's administrative rules~~,~~; and

~~(3)~~(C) appropriate legislative proposals.

(2)(A) If the review is in regard to a regulatory law outside its jurisdiction, the Office shall submit the report in conjunction with the agency with jurisdiction over the licensing of the relevant profession.

(B) In the event the Office and the agency with jurisdiction do not agree to any aspects of the report, the report shall incorporate separate responses of the Office and that agency.

(e) ~~The legislative council staff shall send a copy of the report to the board affected, and shall make copies available for public inspection.~~ [Repealed.]

(f) ~~The house and senate committees on government operations shall be responsible for overseeing the preparation of reports by the legislative council staff under this chapter.~~ [Repealed.]

(g) ~~After considering a report each committee shall send its findings and recommendations, including proposals for legislation, if any, to the house or to the senate, as appropriate. Any proposed licensing law shall be drafted according to a uniform format recommended in the comprehensive plan.~~ [Repealed.]

§ 3105. CRITERIA AND STANDARDS

(a) A profession or occupation shall be regulated by the State only when:

(1) it can be demonstrated that the unregulated practice of the profession or occupation can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is recognizable and not remote or speculative;

(2) the public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(3) the public cannot be effectively protected by other means.

(b) After evaluating the criteria in subsection (a) of this section and considering governmental and societal costs and benefits, if the ~~Legislature~~ General Assembly finds that it is necessary to regulate a profession or occupation, the least restrictive method of regulation shall be imposed, consistent with the public interest and this section:

(1) if existing common law and statutory civil remedies and criminal sanctions are insufficient to reduce or eliminate existing harm, regulation should occur through enactment of stronger civil remedies and criminal sanctions;

(2) if a professional or occupational service involves a threat to the public and the service is performed primarily through business entities or facilities that are not regulated, the business entity or the facility should be regulated rather than its employee practitioners;

(3) if the threat to the public health, safety, or welfare, including economic welfare, is relatively small, regulation should be through a system of registration;

(4) if the consumer may have a substantial interest in relying on the qualifications of the practitioner, regulation should be through a system of certification; or

(5) if it is apparent that the public cannot be adequately protected by any other means, a system of licensure should be imposed.

(c) Any of the issues set forth in subsections (a) and (b) of this section and section 3107 of this ~~title~~ chapter may be considered in terms of their application to professions or occupations generally.

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

(e) After the review of a proposal to regulate a profession, the Office ~~of Professional Regulation~~ may decline to conduct an analysis and evaluation of the proposed regulation if it finds that:

(1) the proposed regulatory scheme appears to regulate fewer than 250 individuals; and

(2) the Office previously conducted an analysis and evaluation of the proposed regulation of the same profession or occupation, and no new information has been submitted that would cause the Office to alter or modify the recommendations made in its earlier report on ~~the~~ that proposed regulation ~~of the profession~~.

§ 3106. DIRECTOR OF THE OFFICE OF PROFESSIONAL REGULATION; ANNUAL REPORT

(a) Annually, prior to the commencement of each legislative session, the Director of the Office ~~of Professional Regulation~~ shall prepare a concise report on the activities of all boards and advisor professions under his or her jurisdiction. ~~Prior to the commencement of each legislative session, the Director shall prepare a report for publication on the Office's website containing~~ The report shall include his or her assessments, conclusions, and recommendations ~~with proposals for legislation, if any, to the Speaker of the House and to the Chairpersons of the House and Senate Committees on Government Operations and the chairpersons of the boards~~ regarding those boards and advisor professions.

(b) The ~~Office~~ Director shall publish the report on the Office's website and shall also provide written copies of the report to the House and Senate Committees on Government Operations.

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

§ 3107. INFORMATION REQUIRED

Prior to review under this chapter and prior to consideration by the ~~legislature~~ General Assembly of any bill ~~which~~ that proposes to regulate a profession or occupation, the profession or occupation being reviewed or seeking regulation shall explain each of the following factors, in writing, to the extent requested by the ~~appropriate house or senate committees on government operations~~ House or Senate Committee on Government Operations:

(1) Why regulation is necessary, including:

(A) the nature of the potential harm or threat to the public if the profession or occupation is not regulated;

(B) specific examples of the harm or threat identified in subdivision (1)(A) of this section;

(C) the extent to which consumers will benefit from a method of regulation ~~which~~ that permits identification of competent practitioners, indicating typical employers, if any, of practitioners~~;~~.

(2) The extent to which practitioners are autonomous, as indicated by:

(A) the degree to which the profession or occupation requires the use of independent judgment, and the skill or experience required in making such judgment;

(B) the degree to which practitioners are supervised~~;~~.

(3) The efforts that have been made to address the concerns that give rise to the need for regulation, including:

(A) voluntary efforts, if any, by members of the profession or occupation to:

(i) establish a code of ethics;

(ii) help resolve disputes between practitioners and consumers;

(iii) establish requirements for continuing education.

(B) recourse to and the extent of use of existing law~~;~~.

(4) Why the alternatives to licensure specified in this subdivision would not be adequate to protect the public interest:

(A) stronger civil remedies or criminal sanctions;

(B) regulation of the business entity or facility providing the service rather than the employee practitioners;

(C) regulation of the program or service rather than the individual practitioners;

(D) registration of all practitioners;

(E) certification of practitioners;

(F) other alternatives~~;~~.

(5) The benefit to the public if regulation is granted, including:

(A) how regulation will result in reduction or elimination of the harms or threats identified under subdivision (1) of this section;

(B) the extent to which the public can be confident that a practitioner is competent:

(i) whether the registration, certification, or licensure will carry an expiration date;

(ii) whether renewal will be based only upon payment of a fee, or whether renewal will involve reexamination, peer review, or other enforcement;

(iii) the standards for registration, certification, or licensure as compared with the standards of other jurisdictions;

(iv) the nature and duration of the educational requirement, if any, including~~, but not limited to,~~ whether ~~such~~ the educational ~~program~~ requirement includes a substantial amount of supervised field experience; whether educational programs exist in this ~~state~~ State; whether there will be an experience requirement; whether the experience must be acquired under a registered, certified, or licensed practitioner; whether there are alternative routes of entry or methods of satisfying the eligibility requirements and qualifications; whether all applicants will be required to pass an examination; and, if an examination is required, by whom it will be developed and how the costs of development will be met~~;~~.

(6) The form and powers of the regulatory entity, including:

(A) whether the regulatory entity is or would be a board composed of members of the profession or occupation and public members, or a ~~state~~ State agency, or both, and, if appropriate, their respective responsibilities in administering the system of registration, certification, or licensure;

(B) the composition of the board, if any, and the number of public members, if any;

(C) the powers and duties of the ~~board or state agency~~ regulatory entity regarding examinations;

(D) the system for receiving complaints and taking disciplinary action against practitioners~~;~~.

(7) The extent to which regulation might harm the public, including:

(A) whether regulation will restrict entry into the profession or occupation, including:

(i) whether the standards are the least restrictive necessary to ~~insure~~ ensure safe and effective performance; and

(ii) whether persons who are registered, certified, or licensed in ~~a~~ another jurisdiction ~~which~~ that the ~~board or agency~~ regulatory entity believes has requirements that are substantially equivalent to those of this ~~state~~ State will be eligible for endorsement or some form of reciprocity;

(B) whether there are similar professions or occupations ~~which~~ that should be included, or portions of the profession or occupation ~~which~~ that should be excluded from regulation~~;~~.

(8) How the standards of the profession or occupation will be maintained, including:

(A) whether effective quality assurance standards exist in the profession or occupation, such as legal requirements associated with specific programs that define or enforce standards, or a code of ethics; and

(B) how the proposed form of regulation will assure quality, including:

(i) the extent to which a code of ethics, if any, will be adopted; and

(ii) the grounds for suspension, revocation, or refusal to renew registration, certification, or licensure~~;~~.

(9) A profile of the practitioners in this ~~state~~ State, including a list of associations, organizations, and other groups representing the practitioners and including an estimate of the number of practitioners in each group.

(10) The effect that registration, certification, or licensure will have on the costs of the services to the public.

* * * Alcohol and Drug Abuse Counselors * * *

Sec. 2. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

An Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a Director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(45) Alcohol and drug abuse counselors.

Sec. 3. 18 V.S.A. § 4806 is amended to read:

§ 4806. DIVISION OF ALCOHOL AND DRUG ABUSE PROGRAMS

(a) The Division of Alcohol and Drug Abuse Programs shall plan, operate, and evaluate a consistent, effective program of substance abuse programs. All duties, responsibilities, and authority of the Division shall be carried out and exercised by and within the Department of Health.

(b) The Division shall be responsible for the following services:

(1) prevention and intervention;

(2) ~~licensure of alcohol and drug counselors;~~ [Repealed.]

(3) project CRASH schools; and

(4) alcohol and drug treatment.

* * *

(e) ~~Under subdivision (b)(4) of this section, the Commissioner of Health may contract with the Secretary of State for provision of adjudicative services of one or more administrative law officers and other investigative, legal, and administrative services related to licensure and discipline of alcohol and drug counselors.~~ [Repealed.]

Sec. 4. 26 V.S.A. chapter 62 is amended to read:

CHAPTER 62. ALCOHOL AND DRUG ABUSE COUNSELORS

§ 3231. DEFINITIONS

As used in this chapter:

(1) "Alcohol and drug abuse counselor" means a person who engages in the practice of alcohol and drug abuse counseling for compensation.

(2) ~~"Commissioner" means the Commissioner of Health~~ "Director" means the Director of the Office of Professional Regulation.

(3) ~~"Deputy Commissioner" means the Deputy Commissioner of the Division of Alcohol and Drug Abuse Programs~~ "Office" means the Office of Professional Regulation.

(4) ~~"Disciplinary action" means any action taken by the administrative law officer appointed pursuant to 3 V.S.A. § 129(j) against a licensee or applicant based on a finding of unprofessional conduct by the licensee or applicant. "Disciplinary action" includes issuance of warnings and all sanctions, including denial, suspension, revocation, limitation, or restriction of licenses and other similar limitations.~~ [Repealed.]

(5) "Practice of alcohol and drug abuse counseling" means the application of methods, including psychotherapy, ~~which~~ that assist an individual or group to develop an understanding of alcohol and drug abuse dependency problems and to define goals and plan actions reflecting the individual's or group's interests, abilities, and needs as affected by alcohol and drug abuse dependency problems and comorbid conditions.

(6) "Supervision" means the oversight of a person for the purposes of teaching, training, or clinical review by a ~~professional in the same area of specialized practice~~ licensed alcohol and drug abuse counselor or a qualified supervisor as determined by the Director by rule.

§ 3232. PROHIBITION; PENALTIES

(a) ~~No~~ A person shall not perform either of the following acts:

(1) practice or attempt to practice alcohol and drug abuse counseling without a valid license issued in accordance with this chapter, except as otherwise provided in section 3233 of this ~~title~~ chapter; or

(2) use in connection with the person's name any letters, words, or insignia indicating or implying that the person is an alcohol and drug abuse counselor, unless the person is licensed or certified in accordance with this chapter.

(b) A person who violates any of the provisions of this section shall be subject to the penalties provided in 3 V.S.A. § 127~~(c)~~.

§ 3233. EXEMPTIONS

The provisions of subdivision 3232(a)(1) of this chapter, relating to the practice of alcohol and drug abuse counseling, shall not apply to:

* * *

(4) the activities and services of ~~approved alcohol and drug abuse counselors~~ an individual certified under this chapter who ~~are~~ is working in a preferred provider program under the supervision of a licensed alcohol and drug abuse counselor; or

* * *

§ 3234. COORDINATION OF PRACTICE ACTS

Notwithstanding any provision of law to the contrary, a person may practice psychotherapy when acting within the scope of a license or certification granted under this chapter, provided he or she does not hold himself or herself out as a practitioner of a profession for which he or she is not licensed or certified.

§ 3235. ~~DEPUTY COMMISSIONER~~ DIRECTOR; DUTIES

(a) ~~The Deputy Commissioner~~ In addition to the authority granted under 3 V.S.A. chapter 5, the Director shall:

(1) provide general information to applicants for licensure ~~as alcohol and drug abuse counselors~~ or certification under this chapter;

(2) administer fees collected under this chapter;

(3) ~~administer examinations~~ refer complaints and disciplinary matters to an administrative law officer established under 3 V.S.A. § 129(j);

(4) explain appeal procedures to licensees, certified individuals, and applicants for licensure or certification under this chapter; and

(5) receive applications for licensure or certification under this chapter; issue and renew licenses or certifications; and revoke, suspend, reinstate, or condition licenses or certifications as ordered by an administrative law officer~~; and~~

~~(6) contract with the Office of Professional Regulation to adopt and explain complaint procedures to the public, manage case processing, investigate complaints, and refer adjudicatory proceedings to an administrative law officer~~.

(b) The ~~Commissioner of Health, with the advice of the Deputy Commissioner,~~ Director may adopt rules necessary to perform the ~~Deputy Commissioner's~~ Director's duties under this section, including rules:

(1) Specifying acceptable master's degree requirements.

(2) Setting standards for certifying apprentice addiction professionals and alcohol and drug abuse counselors.

(3) Requiring completion and documentation of not more than 40 hours of acceptable continuing education every two years as a condition for license or certification renewal.

(4) Requiring licensed alcohol and drug abuse counselors to disclose to each client the licensee's professional qualifications and experience, those actions that constitute unprofessional conduct, the method for filing a complaint or making a consumer inquiry, and provisions relating to the manner in which the information shall be displayed and signed by both the licensee and the client. The rules may include provisions for applying or modifying these requirements in cases involving clients of preferred providers, institutionalized clients, minors, and adults under the supervision of a guardian.

(5) Regarding ethical standards for individuals licensed or certified under this chapter.

(6) Regarding display of license or certification.

(7) Regarding reinstatement of a license or certification which has lapsed for more than five years.

(8) Regarding supervised practice toward licensure or certification.

§ 3235a. ADVISOR APPOINTEES

(a) The Secretary of State shall appoint three individuals licensed under this chapter to serve as advisors in matters relating to alcohol and drug abuse counselors. Advisors shall be appointed as set forth in 3 V.S.A. § 129b. Two of the initial appointments may be for less than a full term.

(b) Appointees shall not have less than three years' licensed experience as an alcohol and drug abuse counselor in Vermont.

(c) The Director shall seek the advice of the advisors appointed under this section in carrying out the provisions of this chapter.

§ 3236. LICENSED ALCOHOL AND DRUG ABUSE COUNSELOR ELIGIBILITY

(a) To be eligible for licensure as an alcohol and drug abuse counselor, an applicant shall:

(1) have received a master's degree or doctorate in a human services field from an accredited educational institution, including a degree in counseling, social work, psychology, or ~~in~~ an allied mental health field, or a master's degree or higher in a health care profession regulated under this title or Title 33, after having successfully completed a course of study with course work~~,~~ including theories of human development, diagnostic and counseling techniques, ~~and~~ professional ethics, and ~~which includes~~ a supervised clinical practicum; ~~and~~

(2)(A) ~~have been awarded an approved counselor credential from the Division of Alcohol and Drug Abuse Programs in accordance with rules adopted by the Commissioner~~ hold or be qualified to hold a current alcohol and drug counselor certification from the Office; or

(B) hold an International Certification and Reciprocity Consortium certification from another U.S. or Canadian jurisdiction or a U.S. or Canadian national certification organization approved by the Director;

(3) successfully pass the examination approved by the Director; and

(4) complete 2,000 hours of supervised practice as set forth in rule.

(b) A person who is engaged in supervised practice toward licensure who is not within the preferred provider network shall be registered on the roster of nonlicensed and noncertified psychotherapists.

§ 3236a. CERTIFICATION OF APPRENTICE ADDICTION PROFESSIONALS AND ALCOHOL AND DRUG ABUSE COUNSELORS

(a) The Director may certify an individual who has met requirements set by the Director by rule as:

(1) an apprentice addiction professional; or

(2) an alcohol and drug abuse counselor.

(b) The Director may seek cooperation with the International Certification and Reciprocity Consortium or other recognized alcohol and drug abuse provider credentialing organizations as a resource for examinations and rulemaking.

§ 3236b. LICENSURE OR CERTIFICATION BY ENDORSEMENT

The Director may issue a license or certification to an individual under this chapter if the individual holds a license or certification from a U.S. or Canadian jurisdiction that the Director finds has requirements for licensure or certification that are substantially equivalent to those required under this chapter.

§ 3237. ~~APPLICATION~~

~~An individual may apply for a license under this chapter by filing, with the Deputy Commissioner, an application provided by the Deputy Commissioner. The application shall be accompanied by the required fees and evidence of eligibility.~~ [Repealed.]

§ 3238. BIENNIAL RENEWALS

(a) Licenses and certifications shall be renewed every two years on a schedule set by the Office upon:

(1) payment of the required fee~~, provided the person applying for renewal completes~~; and

(2) documentation that the applicant has completed at least 40 hours of continuing education, approved by the ~~Deputy Commissioner, during the preceding two-year period. The Deputy Commissioner shall establish, by rule, guidelines and criteria for continuing education credit~~ Director.

(b) ~~Biennially, the Deputy Commissioner shall forward a renewal form to each license holder. Upon receipt of the completed form and the renewal fee, the Deputy Commissioner shall issue a new license.~~ [Repealed.]

(c) Any application for ~~renewal~~ reinstatement of a license ~~which~~ or certification that has expired shall be accompanied by the ~~renewal fee and a~~

~~reinstatement fee~~ appropriate fees. A person shall not be required to pay renewal fees for years during which the license or certification was lapsed.

(d) ~~The Commissioner of Health may, after notice and opportunity for hearing, revoke a person's right to renew a license if the license has lapsed for five or more years.~~ [Repealed.]

§ 3239. UNPROFESSIONAL CONDUCT

The following conduct and the conduct set forth in 3 V.S.A. § 129a, by a person authorized to provide alcohol and drug abuse services under this chapter or an applicant for licensure or certification, constitutes unprofessional conduct:

* * *

(4) negligent, incompetent, or wrongful conduct in the practice of alcohol and drug abuse counseling; or

(5) harassing, intimidating, or abusing a client~~; or~~

~~(6) agreeing with any other person or organization or subscribing to any code of ethics or organizational bylaws when the intent or primary effect of that agreement, code, or bylaw is to restrict or limit the flow of information concerning alleged or suspected unprofessional conduct to the Director~~.

§ 3240. ~~REGULATORY FEE FUND~~

~~(a) An Alcohol and Drug Counselor Regulatory Fee Fund is created. All counselor licensing and examination fees received by the Division shall be deposited into the Fund and used to offset the costs incurred by the Division for these purposes and for the costs of investigations and disciplinary proceedings.~~

~~(b) To ensure that revenues derived by the Division are adequate to offset the cost of regulation, the Commissioner of Health and the Deputy Commissioner shall review fees from time to time and present proposed fee changes to the General Assembly.~~ [Repealed.]

§ 3241. FEES

In addition to the fees otherwise authorized by law, the ~~Deputy Commissioner~~ Director may charge the ~~following~~ fees~~:~~

~~(1) Late renewal penalty, $25.00 for a renewal submitted less than 30 days late. Thereafter, the Deputy Commissioner may increase the late renewal penalty by $5.00 for every additional month or fraction of a month, provided that the total penalty for a late renewal shall not exceed $100.00.~~

~~(2) Reinstatement of revoked or suspended license, $20.00.~~

~~(3) Replacement of license, $20.00.~~

~~(4) Verification of license, $20.00.~~

~~(5) An examination fee established by the Deputy Commissioner, which shall be no greater than the costs associated with examinations.~~

~~(6) Licenses granted under rules adopted pursuant to 3 V.S.A. § 129(a)(10), $20.00.~~

~~(7) Application for registration, $75.00.~~

~~(8) Application for licensure or certification, $100.00.~~

~~(9) Biennial renewal, $135.00.~~

~~(10) Limited temporary license or work permit, $50.00~~ for professions regulated by the Director as set forth in 3 V.S.A. § 125.

* * *

Sec. 5. TRANSITIONAL PROVISION; CURRENT CERTIFICATION

Notwithstanding the provisions of 26 V.S.A. § 3236a(a) set forth in Sec. 4 of this act, an individual currently certified by the Vermont Alcohol and Drug Abuse Certification Board as an apprentice addiction professional or an alcohol and drug abuse counselor may renew his or her certification as if previously granted to him or her by the Director of the Office of Professional Regulation pursuant to rules adopted by the Director.

Sec. 6. DIRECTOR OF THE OFFICE OF PROFESSIONAL REGULATION; REQUIRED RULEMAKING

The Director of the Office of Professional Regulation may adopt any rules necessary to implement the provisions of Secs. 4 and 5 of this act, prior to the effective date of those sections.

* * * Naturopathic Physicians * * *

Sec. 7. 2012 Acts and Resolves No. 116, Sec. 64(e), as amended by 2015 Acts and Resolves No. 38, Sec. 42, is amended to read:

(e) Formulary sunset; transition to examination.

(1) Subsection (c) of this section (formulary authorization) shall be repealed on July 1, ~~2016~~ 2017.

(2) Any naturopathic physician who is authorized to prescribe, dispense, and administer any prescription medicines under subsection (c) of this section shall have until July 1, ~~2016~~ 2017 to successfully complete the naturopathic

pharmacology examination set forth in 26 V.S.A. § 4125(d) in order to be able to continue to prescribe, dispense, and administer any prescription medicines.

* * * Potable Water Supply and Wastewater System Designers and Pollution Abatement Facility Operators * * *

Sec. 8. 10 V.S.A. § 1263 is amended to read:

§ 1263. DISCHARGE PERMITS

* * *

(d) A discharge permit shall:

(1) ~~specify~~ Specify the manner, nature, volume, and frequency of the discharge permitted and contain terms and conditions consistent with subsection (c) of this section~~;~~.

(2) ~~require~~ Require proper operation and maintenance of any pollution abatement facility necessary in the treatment or processing of the waste by qualified personnel in accordance with standards established by the ~~secretary~~ Secretary and the Director of the Office of Professional Regulation. The ~~secretary~~ Secretary may require ~~operators to be certified under a program established by the secretary~~ that a pollution abatement facility be operated by persons licensed under 26 V.S.A. chapter 97 and may prescribe the class of license required. The ~~secretary~~ Secretary may require a laboratory quality assurance sample program to ~~insure~~ ensure qualifications of laboratory analysts~~;~~.

(3) ~~contain~~ Contain an operation, management, and emergency response plan when required under section 1278 of this title and additional conditions, requirements, and restrictions as the ~~secretary~~ Secretary deems necessary to preserve and protect the quality of the receiving waters, including ~~but not limited to~~ requirements concerning recording, reporting, monitoring, and inspection of the operation and maintenance of waste treatment facilities and waste collection systems~~; and~~.

(4) ~~be~~ Be valid for the period of time specified therein, not to exceed five years.

* * *

Sec. 9. 10 V.S.A. § 1975 is amended to read:

§ 1975. DESIGNER LICENSES

(a) The ~~secretary~~ Director of the Office of Professional Regulation, after due consultation with the Secretary, shall establish and implement a process to license and periodically renew the licenses of designers of potable water

supplies or wastewater systems, establish different classes of licensing for different potable water supplies and wastewater systems, and allow individuals to be licensed in various categories.

(b) ~~No~~ A person shall not design a potable water supply or wastewater system that requires a permit under this chapter without first obtaining a designer license from the ~~secretary~~ Director of the Office of Professional Regulation, except a professional engineer who is licensed in Vermont shall be deemed to have a valid designer license under this chapter, provided that:

(1) the engineer is practicing within the scope of his or her engineering specialty; and

(2) the engineer:

(A) to design a soil-based wastewater system, has satisfactorily completed a college-level soils identification course with specific instruction in the areas of soils morphology, genesis, texture, permeability, color, and redoximorphic features; ~~or~~

(B) has passed a soils identification test administered by the ~~secretary~~ Secretary; or

(C) retains one or more licensed designers who have taken the course specified in this subdivision or passed the soils identification test, whenever performing work regulated under this chapter.

(c) ~~No person shall review or act on permit applications for a potable water supply or wastewater system that he or she designed or installed.~~ [Repealed.]

(d) The ~~secretary~~ Secretary or the Director of the Office of Professional Regulation may review, on a random basis, or in response to a complaint, or on his or her own motion, the testing procedures employed by a licensed designer, the systems designed by a licensed designer, the designs approved or recommended for approval by a licensed designer, and any work associated with the performance of these tasks.

(e) ~~After a hearing conducted under chapter 25 of Title 3, the secretary may suspend, revoke, or impose conditions on a designer license, except for one held by a professional engineer. This proceeding may be initiated on the secretary's own motion or upon a written request which contains facts or reasons supporting the request for imposing conditions, for suspension, or for revocation. Cause for imposing conditions, suspension, or revocation shall be conduct specified under 3 V.S.A. § 129a as constituting unprofessional conduct by a licensee.~~ [Repealed.]

(f) If a person who signs a design or installation certification submitted under this chapter certifies a design, installation, or related design or

installation information and, as a result of the person's failure to exercise reasonable professional judgment, submits design or installation information that is untrue or incorrect, or submits a design or installs a wastewater system or potable water supply that does not comply with the rules adopted under this chapter, the person who signed the certification may be ~~subject to penalties~~ disciplined by the Director of the Office of Professional Regulation and be required to take all actions to remediate the affected project in accordance with the provisions of chapters 201 and 211 of this title.

* * *

Sec. 10. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

An Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a Director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(46) Potable water supply and wastewater system designers

(47) Pollution abatement facility operators

Sec. 11. 26 V.S.A. chapter 97 is added to read:

CHAPTER 97. POTABLE WATER SUPPLY AND WASTEWATER SYSTEM DESIGNERS

Subchapter 1. General Provisions

§ 5001. PURPOSE AND EFFECT

In order to safeguard the life and health of the people of this State, a person, other than a professional engineer exempted under this chapter, shall not design a potable water supply or wastewater system that requires a permit or designer's certification or license under the laws of this State unless currently licensed under this chapter.

§ 5002. DEFINITIONS

As used in this chapter:

(1) "Director" means the Director of the Office of Professional Regulation.

(2) "License" means a current authorization granted by the Director permitting the practice of potable water supply or wastewater system design.

(3) "Potable water supply or wastewater system designer" or "designer" means a person who is licensed under this chapter to engage in the practice of potable water supply or wastewater system design.

(4) "Practice of potable water supply or wastewater system design" or "design" means planning the physical and operational characteristics of a potable water supply or wastewater system that requires a permit or designer's certification or license under the laws of this State:

§ 5003. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

(1) sell or fraudulently obtain or furnish any design degree, diploma, certificate of registration, license, or any other related document or record or to aid or abet therein;

(2) practice design under cover of any degree, diploma, registration, license, or related document or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(3) practice design unless duly registered and currently licensed or otherwise authorized to do so under the provisions of this chapter;

(4) represent himself or herself as being licensed or otherwise authorized by this State to practice design or use in connection with a name any words, letters, signs, or figures that imply that a person is a licensed designer when not licensed or otherwise authorized under this chapter;

(5) practice design during the time a license or authorization issued under this chapter is suspended or revoked;

(6) employ an unlicensed or unauthorized person to practice as a licensed designer; or

(7) practice or employ a licensed designer to practice beyond the scope of his or her practice prescribed by rule.

(b) Any person violating this section shall be subject to the penalties provided in 3 V.S.A. § 127.

§ 5004. EXCEPTIONS

This chapter does not prohibit:

(1) the furnishing of assistance in the case of an emergency or disaster;

(2) the practice of design by a person employed by the U.S. government or any bureau, division, or agency thereof while in the discharge of his or her official federal duties; or

(3) the practice of any other occupation or profession by a person duly licensed or otherwise authorized under the laws of this State.

§ 5005. QUALIFIED PROFESSIONAL ENGINEERS EXEMPT

A licensed professional engineer may practice design without a license under this chapter if he or she satisfies the criteria set forth in 10 V.S.A. § 1975(b).

Subchapter 2. Administration

§ 5011. DUTIES OF THE DIRECTOR

(a) The Director shall:

(1) provide general information to applicants for licensure as designers;

(2) receive applications for licensure, administer or approve examinations, and provide licenses to applicants qualified under this chapter;

(3) administer fees as established by law;

(4) refer all disciplinary matters to an administrative law officer;

(5) renew, revoke, and reinstate licenses as ordered by an administrative law officer; and

(6) explain appeal procedures to licensed designers and to applicants, and complaint procedures to the public.

(b) The Director shall adopt rules necessary to perform his or her duties under this section after due consultation with the Secretary of Natural Resources. These rules may establish grades, types, classes, or subcategories of licenses corresponding to prescribed scopes of practice.

§ 5012. ADVISOR APPOINTEES

(a)(1) The Secretary of State shall appoint three persons to be advisors to the Secretary, two of which shall be designers licensed under this chapter and one of which shall be a representative of the Agency of Natural Resources. Advisors shall be appointed for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to design. Two of the initial appointments may be for a term of fewer than five years.

(2) A designer appointee shall have not fewer than five years' experience as a licensed designer immediately preceding appointment; shall be

licensed as a designer in Vermont; and shall be actively engaged in the practice of design in this State during incumbency.

(3) The Agency of Natural Resources appointee shall be involved in the permitting program established under 10 V.S.A. chapter 64.

(b) The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

Subchapter 3. Licenses

§ 5021. ELIGIBILITY FOR LICENSURE

(a) To be eligible for licensure as a designer, an applicant shall be at least 18 years of age; able to read and write the English language; hold a high school diploma, General Equivalency Diploma (GED), or equivalent; and demonstrate such specific education, training, experience, and examination performance as the Director may by rule require to hold the class of license sought.

(b) The Director may waive examination for an applicant licensed or certified in good standing by a foreign jurisdiction found by the Director to enforce equivalent standards to obtain the class of license sought in this State. The applicant's previous job description and experience in the design field may be considered.

§ 5022. LICENSE RENEWAL

(a)(1) A license shall be renewed every two years upon application, payment of the required fee, and proof of compliance with such continuing education or periodic reexamination requirements as the Director may by rule prescribe. Failure to comply with the provisions of this section shall result in suspension of all privileges granted to the licensee, beginning on the expiration date of the license.

(2) A license that has lapsed shall be renewed upon payment of the biennial renewal fee and the late renewal penalty.

(b) The Director may adopt rules necessary for the protection of the public to assure the Director that an applicant whose license has lapsed or who has not worked for more than three years as a licensed designer is professionally qualified for license renewal. Conditions imposed under this subsection shall be in addition to the requirements of subsection (a) of this section.

§ 5023. APPLICATIONS

Applications for licensure and license renewal shall be on forms provided by the Director. Each application shall contain a statement under oath showing the applicant's education, experience, and other pertinent information and shall be accompanied by the required fee.

§ 5024. LICENSURE GENERALLY

The Director shall issue a license or renew a license, upon payment of the fees required under this chapter, to an applicant or licensee who has satisfactorily met all the requirements of this chapter.

§ 5025. FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

§ 5026. UNPROFESSIONAL CONDUCT

(a) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a committed by a licensee, an applicant, or a person who later becomes an applicant:

(1) has made or caused to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license to practice as a licensed designer;

(2) whether or not committed in this State, has been convicted of a crime related to water system design or installation or a felony which evinces an unfitness to practice design;

(3) is unable to practice design competently by reason of any cause;

(4) has willfully or repeatedly violated or caused the violation of any of the provisions of this chapter, the terms of a permit, the Vermont On-Site Wastewater and Potable Water Supply Regulations, or the Vermont Water Quality Standards;

(5) is habitually intemperate or is addicted to the use of habit-forming drugs;

(6) has a mental, emotional, or physical disability, the nature of which interferes with the ability to practice design competently;

(7) engages in conduct of a character likely to deceive, defraud, or harm the public;

(8) has reviewed or acted on permit applications for a potable water supply or wastewater system that he or she designed or installed.

(b) A person shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Director or the Office of Professional Regulation about alleged incompetent, unprofessional, or unlawful conduct of a licensed designer.

Sec. 12. TRANSITIONAL PROVISIONS

(a) The five years' experience required by 26 V.S.A. § 5012(a)(2) (advisor appointees; qualifications of appointees) set forth in Sec. 11 of this act may include experience while licensed pursuant to subchapter 7 of the Agency of Natural Resources Wastewater System and Potable Water Supply Rules, and an initial advisor appointee may be in the process of applying for licensure from the Office of Professional Regulation if he or she otherwise meets the requirements for licensure as an licensed designer and the other requirements of 26 V.S.A. § 5012(a)(2).

(b) Pending adoption by the Director of administrative rules governing licensed designers, the Director may license designers consistent with subchapter 7 of the Agency of Natural Resources Wastewater System and Potable Water Supply Rules.

(c) A person holding a design license from the Agency of Natural Resources may obtain an equivalent license from the Office of Professional Regulation at no charge, valid through the expiration date assigned by the Agency, and thereafter renewable on a biennial schedule established by the Office.

Sec. 13. 26 V.S.A. chapter 99 is added to read:

CHAPTER 99. POLLUTION ABATEMENT FACILITY OPERATORS

Subchapter 1. General Provisions

§ 5101. PURPOSE AND EFFECT

In order to safeguard the life and health of the people of this State, a person shall not practice or offer to practice pollution abatement facility operation unless currently licensed under this chapter.

§ 5102. DEFINITIONS

As used in this chapter:

(1) "Director" means the Director of the Office of Professional Regulation.

(2) "License" means a current authorization granted by the Director permitting the practice of pollution abatement facility operation.

(3) "Permit," when used as a noun, means an authorization by the Agency of Natural Resources to operate a facility regulated under 10 V.S.A. § 1263.

(4) "Practice of pollution abatement facility operation" means the operation and maintenance of a facility regulated under 10 V.S.A. § 1263 by a

person required by the terms of a permit to hold particular credentials, including those of an "operator," "assistant chief operator," or "chief operator."

(5) "Pollution abatement facility operator" means a person who is licensed under this chapter, or pursuant to rules developed pursuant to this chapter, to engage in the practice of pollution abatement facility operation consistent with a permit.

§ 5103. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

(1) sell or fraudulently obtain or furnish any pollution abatement facility operation degree, diploma, certificate of registration, license, or any other related document or record or to aid or abet therein;

(2) practice or knowingly permit the practice of pollution abatement facility operation under cover of any degree, diploma, registration, license, or related document or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation;

(3) practice or permit the practice of pollution abatement facility operation other than by a person duly registered and currently licensed or otherwise authorized to do so under the provisions of this chapter;

(4) represent himself or herself as being licensed or otherwise authorized by this State to practice pollution abatement facility operation or use in connection with a name any words, letters, signs, or figures that imply that a person is a pollution abatement facility operator when not licensed or otherwise authorized under this chapter;

(5) practice pollution abatement facility operation during the time a license or authorization issued under this chapter is suspended or revoked; or

(6) employ an unlicensed or unauthorized person to practice as a pollution abatement facility operator.

(b) Any person violating this section shall be subject to the penalties provided in 3 V.S.A. § 127(c).

§ 5104. EXCEPTIONS

This chapter does not prohibit:

(1) the furnishing of assistance in the case of an emergency or disaster; or

(2) a person not licensed under this chapter from working under the direct or indirect supervision of a pollution abatement facility operator, where

such employment is consistent with the terms, conditions, and intent of a facility's permit.

Subchapter 2. Administration

§ 5111. DUTIES OF THE DIRECTOR

(a) The Director shall:

(1) provide general information to applicants for licensure as pollution abatement facility operators;

(2) receive applications for licensure, administer or approve examinations and training programs, and provide licenses to applicants qualified under this chapter;

(3) administer fees as established by law;

(4) refer all disciplinary matters to an administrative law officer;

(5) renew, revoke, and reinstate licenses as ordered by an administrative law officer; and

(6) explain appeal procedures to licensed pollution abatement facility operators and to applicants, and complaint procedures to the public.

(b) The Director shall adopt rules necessary to perform his or her duties under this section after due consultation with the Secretary of Natural Resources. These rules may establish grades, types, classes, or subcategories of licenses corresponding to facilities of distinct types and complexity.

§ 5112. ADVISOR APPOINTEES

(a)(1) The Secretary of State shall appoint three persons to be advisors to the Secretary, two of which shall be pollution abatement facility operators and one of which shall be a representative of the Agency of Natural Resources. Advisors shall be appointed for five-year staggered terms to serve at the Secretary's pleasure as advisors in matters relating to operation. Two of the initial appointments may be for a term of fewer than five years.

(2) A pollution abatement facility operator appointee shall have not fewer than five years' experience as a pollution abatement facility operator immediately preceding appointment, shall be licensed as a pollution abatement facility operator in Vermont, and shall be actively engaged in the practice of pollution abatement facility operation in this State during incumbency.

(3) An appointee representing the Agency of Natural Resources shall be involved in the administration of the permitting program established under 10 V.S.A. § 1263.

(b) The Director shall seek the advice of the advisor appointees in carrying out the provisions of this chapter.

Subchapter 3. Licenses

§ 5121. ELIGIBILITY FOR LICENSURE

(a) To be eligible for licensure as a pollution abatement facility operator, an applicant shall be at least 18 years of age; be able to read and write the English language; hold a high school diploma, General Equivalency Diploma (GED), or equivalent; and demonstrate such specific education, training, experience, and examination performance as the Director may by rule require to hold the class of license sought.

(b) The Director may waive examination for an applicant licensed or certified in good standing by a foreign jurisdiction found by the Director to enforce equivalent standards to obtain the class of license sought in this State. The applicant's previous job description and experience in the pollution abatement field may be considered.

§ 5122. LICENSE RENEWAL

(a)(1) A license shall be renewed every two years upon application, payment of the required fee, and proof of compliance with such continuing education or periodic reexamination requirements as the Director may by rule prescribe. Failure to comply with the provisions of this section shall result in suspension of all privileges granted to the licensee, beginning on the expiration date of the license.

(2) A license that has lapsed shall be renewed upon payment of the biennial renewal fee and the late renewal penalty.

(b) The Director may adopt rules necessary for the protection of the public to assure the Director that an applicant whose license has lapsed or who has not worked for more than three years as a pollution abatement facility operator is professionally qualified for license renewal. Conditions imposed under this subsection shall be in addition to the requirements of subsection (a) of this section.

§ 5123. APPLICATIONS

Applications for licensure and license renewal shall be on forms provided by the Director. Each application shall contain a statement under oath showing the applicant's education, experience, and other pertinent information and shall be accompanied by the required fee.

§ 5124. LICENSURE GENERALLY

The Director shall issue a license or renew a license upon payment of the fees required under this chapter to an applicant or licensee who has satisfactorily met all the requirements of this chapter.

§ 5125. FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

§ 5126. UNPROFESSIONAL CONDUCT

(a) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a committed by a licensee, an applicant, or a person who later becomes an applicant:

(1) has made or caused to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license to practice as a water treatment facility operator;

(2) whether or not committed in this State, has been convicted of a crime related to pollution abatement or environmental compliance or a felony which evinces an unfitness to practice water treatment facility operation;

(3) is unable to practice pollution abatement facility operation competently by reason of any cause;

(4) has willfully or repeatedly violated or caused the violation of any of the provisions of this chapter, the terms of a permit, the Vermont Water Pollution Control Permit Regulations, or the Vermont Water Quality Standards;

(5) is habitually intemperate or is addicted to the use of habit-forming drugs;

(6) has a mental, emotional, or physical disability, the nature of which interferes with the ability to practice pollution abatement facility operation competently;

(7) engages in conduct of a character likely to deceive, defraud, or harm the public;

(8) fails to display prominently his or her pollution abatement facility operator license in the office of a facility at which he or she performs licensed activities; or

(9) unreasonably fails to ensure proper operations of the facility.

(b) A person shall not be liable in a civil action for damages resulting from the good faith reporting of information to the Director or the Office of Professional Regulation about alleged incompetent, unprofessional, or unlawful conduct of a pollution abatement facility operator or facility, corporation, or municipal corporation employing such person.

Sec. 14. TRANSITIONAL PROVISIONS

(a) Notwithstanding the provision of 26 V.S.A. § 5112(a)(2) (advisor appointees; qualifications of appointees) that requires an appointee to be licensed as a pollution abatement facility operator in Vermont, an initial advisor appointee may be in the process of applying for licensure if he or she otherwise meets the requirements for licensure as a wastewater treatment facility operator and the other requirements of 26 V.S.A. § 5112(a)(2).

(b) Pending adoption by the Director of administrative rules governing pollution abatement facility operators, the Director may license individuals to operate pollution abatement facilities consistent with the Agency of Natural Resources Wastewater Treatment Facility Operator Certification Rule.

(c) A person holding an active certificate from the Agency of Natural Resources as an operator, assistant chief operator, or chief operator may obtain an equivalent license from the Office of Professional Regulation at no charge, valid through the expiration date assigned by the Agency, and thereafter renewable on a biennial schedule established by the Office.

Sec. 15. CREATION OF NEW POSITION WITHIN THE OFFICE OF PROFESSIONAL REGULATION

(a) To support the administration of new professional regulation licensees created in Secs. 11 and 13 of this act, there is created within the Secretary of State's Office of Professional Regulation one (1) Licensing Board Specialist.

(b) Any funding necessary to support the position created under subsection (a) of this section shall be derived from the Office's Professional Regulatory Fee Fund, with no General Fund dollars.

* * * Board of Dental Examiners * * *

Sec. 16. 26 V.S.A. § 581 is amended to read:

§ 581. CREATION; QUALIFICATIONS

* * *

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

* * * Social Workers * * *

Sec. 17. 26 V.S.A. § 3202 is amended to read:

§ 3202. PROHIBITION; OFFENSES

* * *

(c) A State agency or a subdivision or contractor thereof shall not use or permit the use of the title "social worker" other than in relation to an employee holding a bachelor's, master's, or doctoral degree from an accredited school or program of social work.

* * * Land Surveyors * * *

Sec. 18. 27 V.S.A. § 1403 is amended to read:

§ 1403. COMPOSITION OF SURVEY PLATS

(a) Plats filed in accordance with this chapter shall be on sheets 11 inches by 17 inches or 18 inches by 24 inches in size or 24 inches by 36 inches if the town or city has appropriate storage facilities as determined by the town or city clerk.

(b) Plats filed in accordance with this chapter shall also conform with the following ~~further~~ requirements:

(1) Each survey plat shall contain an inset locus map clearly indicating the location of the land depicted and a legend of symbols used.

(2) All lettering and data shall be clearly legible.

(3) Plat scale ratios shall be sufficient to allow all pertinent survey data to be shown, and each plat shall contain a graphic scale graduated in units of measure used in the body of the plat.

(4) Each plat sheet shall have a minimum one-half inch margin, except the binder side, which shall have a minimum one and one-half inch margin.

(5) Each plat sheet shall contain a title area in the lower right-hand corner of the sheet stating the location of the land, scale expressed in engineering units, date of compilation, the name of the record owner as of that date, the land surveyor's certification as outlined in 26 V.S.A. § 2596, and a certification that the plat conforms with requirements of this section. These certifications shall be accompanied by the responsible land surveyor's seal, name and number, and signature.

(6) Each survey plat shall contain a graphical indication of the reference meridian used on the survey plat and a statement describing the basis of bearings referenced on the survey plat.

(7) When the plat sheet is produced by a reproduction process, the process shall be identified and certified to by the producer in the margin of the plat sheet. Original plat sheets shall be so identified and certified to by the same process.

(8) The recordable plat materials shall be composed in one of the following processes:

(A) fixed-line photographic process on stable base polyester film; or

(B) pigment ink on stable base polyester film or linen tracing cloth.

(c) Survey plats prepared and dated before July 1, 1992~~,~~ shall be exempt from the requirements of subdivisions ~~(b)(2)–(7)~~ (b)(1)–(6) and (8) of this section, but shall comply with requirements in State law in effect when the plats were prepared and dated.

(d) Survey plats prepared and dated before any statutory regulation of land plats shall comply with ~~subsections~~ subsection (a) and ~~subdivisions (b)(1) and (b)(8)~~ subdivision (b)(7) of this section.

(e) Any survey plat exempted by subsection (c) or (d) of this section and revised after July 1, 1992~~,~~ shall meet all the requirements of ~~sections 1401–1406 of~~ this ~~title~~ chapter.

Sec. 19. 27 V.S.A. § 1404 is amended to read:

§ 1404. ~~EXCEPTIONS~~ EXEMPTIONS

(a) Survey plats prepared and filed by municipal and State government agencies shall be exempt from subdivision 1403(b)(5) of this ~~title~~ chapter. Each plat sheet filed under this exemption shall contain a title area in the lower right-hand corner of the sheet stating the location of the land, the scale expressed in engineering units, and the date of compilation. Highway plats or plans filed under this exemption shall also include right-of-way detail sheets and a title sheet.

(b) Survey plats prepared and filed in accordance with 24 V.S.A. § 4463 shall be exempt from subdivision 1403(b)(5) of this ~~title~~ chapter. Survey plats or plans filed under this exemption shall contain a title area, the location of the land, and scale expressed in engineering units. In addition, they shall include inscriptions and data required by zoning and planning boards.

(c) Survey plats prepared and filed in accordance with chapter 15 of this title shall be exempt from subdivision ~~1403(b)(6)~~ 1403(b)(5) of this ~~title~~ chapter. Each plat sheet filed under this exemption shall contain a title area stating the location of the land, the scale expressed in engineering or architectural units, and the date of compilation.

* * * Professional Regulation Report * * *

Sec. 20. FINDINGS AND PURPOSE

(a) Findings.

(1) The General Assembly finds that multiple State agencies regulate a variety of professions and occupations. This includes the Office of Professional Regulation, which is focused primarily on licensing administration and enforcement and which regulates approximately 60,000 licensees across 46 professions. It also includes other State agencies that have other functions as their primary focus, with professional regulation as an ancillary aspect of their duties.

(2) The General Assembly further finds that the State should review the organization of professional regulation in the State to determine whether the regulation of certain professions and occupations should be transferred to the Office of Professional Regulation in order to allow State government to operate in a more effective and efficient manner.

(3) The General Assembly further finds that the State should review the makeup and supervision of professional regulatory entities in the State to determine whether they comply with antitrust law in light of recent U.S. Supreme Court precedent.

(b) Purpose. The purpose of Sec. 2 of this act is to provide the General Assembly and the Office of Professional Regulation with comprehensive information regarding the organizational structures of and the resources that are necessary for other State agencies in regulating the professions and occupations under their jurisdiction. This information will help the General Assembly determine whether the regulation of certain professions and occupations should be transferred to the Office. The purpose is also to provide the General Assembly and the Office of the Attorney General with information regarding the makeup and supervision of the professional regulatory entities in the State to ensure compliance with antitrust law.

Sec. 21. PROFESSIONAL REGULATION REPORT

On or before December 15, 2016, each of the agencies and departments set forth in subdivision (1) of this section shall provide a written report to the Senate and House Committees on Government Operations, and provide a copy of that report to the Office of Professional Regulation. The report shall contain the information set forth in subdivision (2) of this section for each of the professions or occupations listed in subdivision (1) that are regulated by that agency or department or by a professional regulatory entity under the jurisdiction of the agency or department. On or before July 1, 2016, the

Secretary of Administration shall prepare a form that the agencies and departments shall use to file this report, and the Secretary shall assist the agencies and departments as necessary in completing the report.

(1) Agencies and departments required to report; listed professions and occupations.

(A) Agency of Agriculture, Food and Markets:

(i) dairy technicians;

(ii) pesticide applicators;

(iii) weighmasters; and

(iv) weights and measures repairers.

(B) Agency of Education: educators.

(C) Agency of Human Services:

(i) child care center workers; and

(ii) child care home providers.

(D) Agency of Natural Resources:

(i) water system operators; and

(ii) well drillers.

(E) Department of Health:

(i) physicians;

(ii) physician assistants;

(iii) anesthesiologist assistants;

(iv) podiatrists;

(v) radiologist assistants;

(vi) emergency medical personnel;

(vii) asbestos abatement professionals; and

(viii) lead abatement professionals.

(F) Department of Liquor Control:

(i) sellers;

(ii) manufacturers;

(iii) distributors; and

(iv) any other professionals who may be regulated by the Department.

(G) Department of Public Safety:

(i) electricians;

(ii) plumbers;

(iii) elevator inspectors;

(iv) elevator mechanics;

(v) lift mechanics;

(vi) commissioned boiler inspectors;

(vii) chemical suppression;

(viii) chimney sweeps;

(ix) fire alarm inspectors;

(x) fire sprinkler system designers;

(xi) fire sprinkler system installers;

(xii) oil burner installers;

(xiii) propane gas installers;

(xiv) natural gas installers;

(xv) precious metal dealers;

(xvi) emergency generator installers;

(xvii) polygraph examiners; and

(xviii) explosive blasters.

(2) Information required to be reported.

(A) Agency or department name.

(B) Regulation type (license, certification, or registration).

(C) Number of persons regulated.

(D) Legal basis for regulation, including:

(i) statutory authority;

(ii) administrative rules; and

(iii) agency or department policies.

(E) Purpose of regulation.

(F) A description of stakeholders in the regulation, including:

(i) those subject to regulation;

(ii) State entities;

(iii) consumers or clients;

(iv) employers;

(v) the public; and

(vi) any other applicable persons.

(G) A description of the governance structure, such as:

(i) a board or commission;

(ii) an agency or division head;

(iii) a panel; or

(iv) a hearing officer.

(H) A description of the decision makers:

(i) who set application requirements and practice standards;

(ii) who make decisions on applicants, enforcement, and discipline; and

(iii) specifying whether any decision maker is an active participant in the profession being regulated or, if the decision maker has taken a hiatus from the profession, whether the decision maker plans to return to the profession.

(I) Qualifications for regulation, including:

(i) examination;

(ii) education; and

(iii) experience.

(J) A description of the application process, including:

(i) receiving applications;

(ii) reviewing applications;

(iii) rejecting applications;

(iv) appealing application rejections;

(v) issuing licenses, certifications, or registrations; and

(vi) the average time to process licenses.

(K) The duration of the license, certification, or registration.

(L) A description of the renewal process and requirements.

(M) Citation of the standards of practice or codes of conduct for persons regulated set forth in:

(i) statute;

(ii) rule;

(iii) policy; or

(iv) another location.

(N) A description of the enforcement process, including:

(i) complaints;

(ii) investigations;

(iii) prosecutions;

(iv) hearings;

(v) discipline;

(vi) follow-up or monitoring; and

(vii) the average time to process complaints and cases.

(O) A description of any inspection process.

(P) A description of any systems, such as information technology systems, that are used to enable licensing, certification, or registration, renewal, enforcement, and inspection.

(Q) Staff members:

(i) number of full-time staff;

(ii) number of part-time staff;

(iii) job titles; and

(iv) duties.

(R) Budget:

(i) annual expenses;

(ii) annual revenues;

(iii) fees:

(I) the amount charged;

(II) how fee amounts are determined and set;

(III) the authority to establish those fees; and

(IV) how revenues from fees are used, indicating the specific uses if those revenues are used for purposes other than regulating the profession.

(iv) General Fund or special fund deposits; and

(v) appropriations from the General Fund.

(S) A description and the qualifications of any supervisor responsible for the oversight of the agency's or department's professional regulatory entity and whether that supervisor has the ability to veto or modify any decision by that professional regulatory entity.

(T) Any other information the agency or department believes is relevant for the purpose of this report.

* * * Licensure by the Office of Professional Regulation and the Agency of Education * * *

Sec. 22. 16 V.S.A. § 1696 is amended to read:

§ 1696. LICENSING

* * *

(g) Dual licensure. The Secretary and the Office of Professional Regulation shall jointly create a process for facilitating the issuance of professional licenses from both offices to the individuals seeking them.

Sec. 23. 3 V.S.A. § 123 is amended to read:

§ 123. DUTIES OF OFFICE

* * *

(h) The Office and the Secretary of Education shall jointly create a process for facilitating the issuance of professional licenses from both offices to the individuals seeking them.

* * * Effective Dates * * *

Sec. 24. EFFECTIVE DATES

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

(1) this section and Secs. 20 (findings and purpose) and 21 (professional regulation report) shall take effect on passage;

(2) Secs. 2-5 (regarding alcohol and drug abuse counselors) shall take effect on September 1, 2016;

(3) Secs. 8-14 (regarding potable water supply and wastewater system designers and pollution abatement facility operators) shall take effect on January 1, 2017; and

(4) Sec. 17, 26 V.S.A. § 3202 (social workers; prohibition) shall take effect on July 1, 2017.

(Committee vote: 4-1-0)

(For House amendments, see House Journal for March 22, 2016, pages 582-614 and March 23, 2016, page 617)

Reported favorably by Senator Kitchel for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

(Committee vote: 5-0-2)

Amendment to proposal of amendment of the Committee on Government Operations to H. 562 to be offered by Senator Mullin

Senator Mullin moves to amend the proposal of amendment of the Committee on Government Operations in Sec. 23, 3 V.S.A. § 123(h) by inserting after the period a new sentence to read as follows: Until such time as this process is created, Speech Language Pathologists who meet the definition of "teacher" pursuant to § 1691a of this title shall not be required to pay a fee to the Office of Professional Regulation for any license issued under chapter 87 of Title 26.

H. 812.

An act relating to implementing an all-payer model and oversight of accountable care organizations.

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

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

* * * All-Payer Model * * *

Sec. 1. ALL-PAYER MODEL; MEDICARE AGREEMENT

The Green Mountain Care Board and the Agency of Administration shall only enter into an agreement with the Centers for Medicare and Medicaid Services to waive provisions under Title XVIII (Medicare) of the Social Security Act if the agreement:

(1) is consistent with the principles of health care reform expressed in 18 V.S.A. § 9371, to the extent permitted under Section 1115A of the Social Security Act and approved by the federal government;

(2) preserves the consumer protections set forth in Title XVIII of the Social Security Act, including not reducing Medicare covered services, not increasing Medicare patient cost sharing, and not altering Medicare appeals processes;

(3) allows providers to choose whether to participate in accountable care organizations, to the extent permitted under federal law;

(4) allows Medicare patients to choose among providers;

(5) includes outcome measures for population health; and

(6) continues to provide payments from Medicare directly to health care providers or accountable care organizations without conversion, appropriation, or aggregation by the State of Vermont.

Sec. 2. 18 V.S.A. chapter 227 is added to read:

CHAPTER 227. ALL-PAYER MODEL

§ 9551. ALL-PAYER MODEL

In order to implement a value-based payment model allowing participating health care providers to be paid by Medicaid, Medicare, and commercial insurance using a common methodology that may include population-based payments and increased financial predictability for providers, the Green Mountain Care Board and Agency of Administration shall ensure that the model:

(1) maintains consistency with the principles established in section 9371 of this title;

(2) continues to provide payments from Medicare directly to health care providers or accountable care organizations without conversion, appropriation, or aggregation by the State of Vermont;

(3) maximizes alignment between Medicare, Medicaid, and commercial payers to the extent permitted under federal law and waivers from federal law, including:

(A) what is included in the calculation of the total cost of care;

(B) attribution and payment mechanisms;

(C) patient protections;

(D) care management mechanisms; and

(E) provider reimbursement processes;

(4) strengthens and invests in primary care;

(5) incorporates social determinants of health;

(6) adheres to federal and State laws on parity of mental health and substance abuse treatment and integrates mental health and substance abuse treatment systems into the overall health care system;

(7) includes a process for integration of community-based providers, including home health agencies, mental health agencies, developmental disability service providers, emergency medical service providers, and area agencies on aging, and their funding streams to the extent permitted under federal law, into a transformed, fully integrated health care system that may include transportation and housing;

(8) continues to prioritize the use, where appropriate, of existing local and regional collaboratives of community health providers that develop integrated health care initiatives to address regional needs and evaluate best practices for replication and return on investment;

(9) pursues an integrated approach to data collection, analysis, exchange, and reporting to simplify communication across providers and drive quality improvement and access to care;

(10) allows providers to choose whether to participate in accountable care organizations, to the extent permitted under federal law;

(11) evaluates access to care, quality of care, patient outcomes, and social determinants of health;

(12) requires processes and protocols for shared decision making between the patient and his or her health care providers that take into account a patient's unique needs, preferences, values, and priorities, including use of decision support tools and shared decision-making methods with which the patient may assess the merits of various treatment options in the context of his or her values and convictions, and by providing patients access to their medical

records and to clinical knowledge so that they may make informed choices about their care;

(13) supports coordination of patients' care and care transitions through the use of technology, with patient consent, such as sharing electronic summary records across providers and using telemedicine, home telemonitoring, and other enabling technologies; and

(14) ensures, in consultation with the Office of the Health Care Advocate, that robust patient grievance and appeal protections are available.

* * * Oversight of Accountable Care Organizations * * *

Sec. 3. 18 V.S.A. § 9373 is amended to read:

§ 9373. DEFINITIONS

As used in this chapter:

* * *

(16) "Accountable care organization" and "ACO" means an organization of health care providers that has a formal legal structure, is identified by a federal Taxpayer Identification Number, and agrees to be accountable for the quality, cost, and overall care of the patients assigned to it.

Sec. 4. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

(1) Oversee the development and implementation, and evaluate the effectiveness, of health care payment and delivery system reforms designed to control the rate of growth in health care costs; promote seamless care, administration, and service delivery; and maintain health care quality in Vermont, including ensuring that the payment reform pilot projects set forth in this chapter are consistent with such reforms.

* * *

(13) Adopt by rule pursuant to 3 V.S.A. chapter 25 such standards ~~for~~ as the Board deems necessary and appropriate to the operation and evaluation of accountable care organizations pursuant to this chapter, including reporting requirements, patient protections, and solvency and ability to assume financial risk.

Sec. 5. 18 V.S.A. § 9382 is added to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

(a) In order to be eligible to receive payments from Medicaid or commercial insurance through any payment reform program or initiative,

including an all-payer model, each accountable care organization shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying accountable care organizations. To the extent permitted under federal law, the Board shall ensure these rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In order to certify an ACO to operate in this State, the Board shall ensure that the following criteria are met:

(1) the ACO's governance, leadership, and management structure is transparent, reasonably and equitably represents the ACO's participating providers and its patients, and includes a consumer advisory board and other processes for inviting and considering consumer input;

(2) the ACO has established appropriate mechanisms and care models to provide, manage, and coordinate high-quality health care services for its patients, including incorporating the Blueprint for Health, coordinating services for complex high-need patients, and providing access to health care providers who are not participants in the ACO;

(3) the ACO has established appropriate mechanisms to receive and distribute payments to its participating health care providers;

(4) the ACO has established appropriate mechanisms and criteria for accepting health care providers to participate in the ACO that prevent unreasonable discrimination and are related to the needs of the ACO and the patient population served;

(5) the ACO has established mechanisms and care models to promote evidence-based health care, patient engagement, coordination of care, use of electronic health records, and other enabling technologies to promote integrated, efficient, seamless, and effective health care services across the continuum of care, where feasible;

(6) the ACO's participating providers have the capacity for meaningful participation in health information exchanges;

(7) the ACO has performance standards and measures to evaluate the quality and utilization of care delivered by its participating health care providers;

(8) the ACO does not place any restrictions on the information its participating health care providers may provide to patients about their health or decisions regarding their health;

(9) the ACO's participating health care providers engage their patients in shared decision making to inform them of their treatment options and the related risks and benefits of each;

(10) the ACO offers assistance to health care consumers, including:

(A) maintaining a consumer telephone line for complaints and grievances from attributed patients;

(B) responding and making best efforts to resolve complaints and grievances from attributed patients, including providing assistance in identifying appropriate rights under a patient's health plan;

(C) providing an accessible mechanism for explaining how ACOs work;

(D) providing contact information for the Office of the Health Care Advocate; and

(E) sharing deidentified complaint and grievance information with the Office of the Health Care Advocate at least twice annually;

(11) the ACO collaborates with providers not included in its financial model, including home- and community-based providers and dental health providers;

(12) the ACO does not interfere with patients' choice of their own health care providers under their health plan, regardless of whether a provider is participating in the ACO; does not reduce covered services; and does not increase patient cost sharing;

(13) meetings of the ACO's governing body include a public session at which all business that is not confidential or proprietary is conducted and members of the public are provided an opportunity to comment;

(14) the impact of the ACO's establishment and operation does not diminish access to any health care service or increase delays in access to care for the population and area it serves;

(15) the ACO has in place appropriate mechanisms to conduct ongoing assessments of its legal and financial vulnerabilities; and

(16) the ACO has in place a financial guarantee sufficient to cover its potential losses.

(b)(1) The Green Mountain Care Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for reviewing, modifying, and approving the budgets of ACOs with 10,000 or more attributed lives in Vermont. To the extent permitted under federal law, the Board shall

ensure the rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In its review, the Board shall review and consider:

(A) information regarding utilization of the health care services delivered by health care providers participating in the ACO and the effects of care models on appropriate utilization, including the provision of innovative services;

(B) the goals and recommendations of the health resource allocation plan created in chapter 221 of this title;

(C) the expenditure analysis for the previous year and the proposed expenditure analysis for the year under review by payer;

(D) the character, competence, fiscal responsibility, and soundness of the ACO and its principals;

(E) any reports from professional review organizations;

(F) the ACO's efforts to prevent duplication of high-quality services being provided efficiently and effectively by existing community-based providers in the same geographic area, as well as its integration of efforts with the Blueprint for Health and its regional care collaboratives;

(G) the extent to which the ACO provides incentives for systemic health care investments to strengthen primary care, including strategies for recruiting additional primary care providers, providing resources to expand capacity in existing primary care practices, and reducing the administrative burden of reporting requirements for providers while balancing the need to have sufficient measures to evaluate adequately the quality of and access to care;

(H) the extent to which the ACO provides incentives for systemic integration of community-based providers in its care model or investments to expand capacity in existing community-based providers, in order to promote seamless coordination of care across the care continuum;

(I) the extent to which the ACO provides incentives for systemic health care investments in social determinants of health, such as developing support capacities that prevent hospital admissions and readmissions, reduce length of hospital stays, improve population health outcomes, reward healthy lifestyle choices, and improve the solvency of and address the financial risk to community-based providers that are participating providers of an accountable care organization;

(J) the extent to which the ACO provides incentives for preventing and addressing the impacts of adverse childhood experiences (ACEs), such as

developing quality outcome measures for use by primary care providers working with children and families, developing partnerships between nurses and families, providing opportunities for home visits, and including parent-child centers and designated agencies as participating providers in the ACO;

(K) public comment on all aspects of the ACO's costs and use and on the ACO's proposed budget;

(L) information gathered from meetings with the ACO to review and discuss its proposed budget for the forthcoming fiscal year;

(M) information on the ACO's administrative costs, as defined by the Board;

(N) the effect, if any, of Medicaid reimbursement rates on the rates for other payers; and

(O) the extent to which the ACO makes its costs transparent and easy to understand so that patients are aware of the costs of the health care services they receive.

(2) The Office of the Health Care Advocate shall have the right to intervene in any ACO budget review under this subsection. As an intervenor, the Office of the Health Care Advocate shall receive copies of all materials in the record and may:

(A) ask questions of any participant in the Board's ACO budget review;

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

(C) provide testimony in any hearing held in connection with the Board's ACO budget review.

(c) The Board's rules shall include requirements for submission of information and data by ACOs and their participating providers as needed to evaluate an ACO's success. They may also establish standards as appropriate to promote an ACO's ability to participate in applicable federal programs for ACOs.

(d) All information required to be filed by an ACO pursuant to this section or to rules adopted pursuant to this section shall be made available to the public upon request, provided that individual patients or health care providers shall not be directly or indirectly identifiable.

(e) To the extent required to avoid federal antitrust violations, the Board shall supervise the participation of health care professionals, health care facilities, and other persons operating or participating in an accountable care

organization. The Board shall ensure that its certification and oversight processes constitute sufficient State supervision over these entities to comply with federal antitrust provisions and shall refer to the Attorney General for appropriate action the activities of any individual or entity that the Board determines, after notice and an opportunity to be heard, may be in violation of State or federal antitrust laws without a countervailing benefit of improving patient care, improving access to health care, increasing efficiency, or reducing costs by modifying payment methods.

* * * Rulemaking * * *

Sec. 6. GREEN MOUNTAIN CARE BOARD; RULEMAKING

On or before January 1, 2018, the Green Mountain Care Board shall adopt rules governing the oversight of accountable care organizations pursuant to 18 V.S.A. § 9382. On or before January 15, 2017, the Board shall provide an update on its rulemaking process and its vision for implementing the rules to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Sec. 7. DENIAL OF SERVICE; RULEMAKING

The Department of Financial Regulation and the Department of Vermont Health Access shall ensure that their rules protect against wrongful denial of services under an insured's or Medicaid beneficiary's health benefit plan for an insured or Medicaid beneficiary attributed to an accountable care organization. The Departments may amend their rules as necessary to ensure that the grievance and appeals processes in Medicaid and commercial health benefit plans are appropriate to an accountable care organization structure.

* * * Implementation Provisions * * *

Sec. 8. TRANSITION; IMPLEMENTATION

(a) Prior to January 1, 2018, if the Green Mountain Care Board and the Agency of Administration pursue development and implementation of an all-payer model, they shall develop and implement the model in a manner that works toward meeting the criteria established in 18 V.S.A. § 9551. Through its authority over payment reform pilot projects under 18 V.S.A. § 9377, the Board shall also oversee the development and operation of accountable care organizations in order to encourage them to achieve compliance with the criteria established in 18 V.S.A. § 9382(a) and to establish budgets that reflect the criteria set forth in 18 V.S.A. § 9382(b).

(b) On or before January 1, 2018, the Board shall begin certifying accountable care organizations that meet the criteria established in 18 V.S.A. § 9382(a) and shall only approve accountable care organization budgets after

review and consideration of the criteria set forth in 18 V.S.A. § 9382(b). If the Green Mountain Care Board and the Agency of Administration pursue development and implementation of an all-payer model, then on and after January 1, 2018 they shall implement the all-payer model in accordance with 18 V.S.A. § 9551.

* * * Reducing Administrative Burden on Health Care Professionals * * *

Sec. 9. 18 V.S.A. § 9374(e) is amended to read:

(e)(1) The Board shall establish a consumer, patient, business, and health care professional advisory group to provide input and recommendations to the Board. Members of such advisory group who are not State employees or whose participation is not supported through their employment or association shall receive per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, provided that the total amount expended for such compensation shall not exceed $5,000.00 per year.

(2) The Board may establish additional advisory groups and subcommittees as needed to carry out its duties. The Board shall appoint diverse health care professionals to the additional advisory groups and subcommittees as appropriate.

(3) To the extent funds are available, the Board may examine, on its own or through collaboration or contracts with third parties, the effectiveness of existing requirements for health care professionals, such as quality measures and prior authorization, and evaluate alternatives that improve quality, reduce costs, and reduce administrative burden.

Sec. 10. PRIMARY CARE PROFESSIONAL ADVISORY GROUP

(a) The Green Mountain Care Board shall establish a primary care professional advisory group to provide input and recommendations to the Board. The Board shall seek input from the primary care professional advisory group to address issues related to the administrative burden facing primary care professionals, including:

(1) identifying circumstances in which existing reporting requirements for primary care professionals may be replaced with more meaningful measures that require minimal data entry;

(2) creating opportunities to reduce requirements for primary care professionals to provide prior authorization for their patients to receive radiology, medication, and specialty services; and

(3) developing a uniform hospital discharge summary for use across the State.

(b) The Green Mountain Care Board shall provide an update on the advisory group's work in the annual report the Board submits to the General Assembly in accordance with 18 V.S.A. § 9375(d).

(c) The Board may seek assistance from organizations representing primary care professionals. Members of the advisory group who are not State employees or whose participation is not supported through their employment or association shall receive per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, provided that the total amount expended for such compensation shall not exceed $5,000.00 per year. The advisory group shall cease to exist on July 1, 2018.

* * * Additional Reports * * *

Sec. 11. AGENCY OF HUMAN SERVICES' CONTRACTS; REPORT

(a) On or before January 1, 2017, the Agency of Human Services, in consultation with Vermont Care Partners, the Green Mountain Care Board, and representatives from preferred providers, shall submit a report to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services. The report shall address the following:

(1) the amount and type of performance measures and other evaluations used in fiscal year 2016 and 2017 Agency contracts with designated agencies, specialized service agencies, and preferred providers;

(2) how the Agency's funding levels of designated agencies, specialized service agencies, and preferred providers affect access to and quality of care; and

(3) how the Agency's funding levels for designated agencies, specialized service agencies, and preferred providers affect compensation levels for staff relative to private and public sector pay for the same services.

(b) The report shall contain a plan developed in conjunction with the Vermont Health Care Innovation Project and in consultation with the Vermont Care Network and the Vermont Council of Developmental and Mental Health Services to implement a value-based payment methodology for designated agencies, specialized service agencies, and preferred providers that shall improve access to and quality of care, including long-term financial sustainability. The plan shall describe the interaction of the value-based payment methodology for Medicaid payments made to designated agencies, specialized service agencies, and preferred providers by the Agency with any Medicaid payments made to designated agencies, specialized service agencies, and preferred providers by the accountable care organizations.

(c) As used in this section:

(1) "Designated agency" means the same as in 18 V.S.A. § 7252.

(2) "Preferred provider" means any substance abuse organization that has attained a certificate of operation from the Department of Health's Division of Alcohol and Drug Abuse Programs and has an existing contract or grant from the Division to provide substance abuse treatment.

(3) "Specialized service agency" means any community mental health and developmental disability agency or any public or private agency providing specialized services to persons with a mental condition or psychiatric disability or with developmental disabilities or children and adolescents with a severe emotional disturbance pursuant to 18 V.S.A. § 8912.

Sec. 12. MEDICAID PATHWAY; REPORT

(a) The Secretary of Human Services, in consultation with the Director of Health Care Reform, the Green Mountain Care Board, and affected providers, shall create a process for payment and delivery system reform for Medicaid providers and services. This process shall address all Medicaid payments to affected providers, focus on services not included in the Medicaid equivalent of Medicare Part A and Part B services, and integrate the providers to the extent practicable into the all-payer model and other existing payment and delivery system reform initiatives.

(b) On or before January 15, 2017 and annually for five years thereafter, the Secretary of Human Services shall report on the results of this process to the Senate Committee on Health and Welfare and the House Committees on Health Care and on Human Services. The Secretary's report shall address:

(1) all Medicaid payments to affected providers, including progress toward integration of services not included in the Medicaid equivalent of Medicare Part A and Part B services in the previous year;

(2) changes to reimbursement methodology and the services impacted;

(3) efforts to integrate affected providers into the all-payer model and with other payment and delivery system reform initiatives;

(4) changes to quality measure collection and identifying alignment efforts and analyses, if any; and

(5) the interrelationship of results-based accountability initiatives with the quality measures in subdivision (4) of this subsection.

Sec. 13. MEDICAID ADVISORY RATE CASE FOR ACO SERVICES

On or before December 31, 2016, the Green Mountain Care Board shall review any all-inclusive population-based payment arrangement between the Department of Vermont Health Access and an accountable care organization for calendar year 2017. The Board's review shall include the number of

attributed lives, eligibility groups, covered services, elements of the per-member, per-month payment, and any other nonclaims payments. The review shall be nonbinding on the Agency of Human Services, and nothing in this section shall be construed to abrogate the designation of the Agency of Human Services as the single State agency as required by 42 C.F.R. § 431.10.

Sec. 14. MULTI-YEAR BUDGETS; ACOS; REPORT

The Green Mountain Care Board shall consider the appropriate role, if any, of using multi-year budgets for ACOs to reduce administrative burden, improve care quality, and ensure sustainable access to care. On or before January 15, 2017, the Green Mountain Care Board and the Department of Vermont Health Access shall provide their findings and recommendations to the House Committees on Health Care and on Human Services and the Senate Committees on Health and Welfare and on Finance.

Sec. 15. MULTI-YEAR BUDGETS; MEDICAID; REPORT

The Joint Fiscal Office and the Department of Finance and Management, in collaboration with the Agency of Human Services Central Office and the Department of Vermont Health Access, shall consider the appropriate role, if any, of using multi-year budgets for Medicaid and other State-funded health care programs to reduce administrative burden, improve care quality, and ensure sustainable access to care. On or before March 1, 2017, the Joint Fiscal Office and the Department of Finance and Management shall provide their findings and any recommendations for statutory change to the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations, on Health and Welfare, and on Finance.

Sec. 16. ALL-PAYER MODEL; ALIGNMENT; REPORT

On or before January 15, 2017, the Green Mountain Care Board shall present information to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance on the status of its efforts to achieve alignment between Medicare, Medicaid, and commercial payers in the all-payer model as required by 18 V.S.A. § 9551(a)(3).

* * * Nutrition Procurement Standards for State Government * * *

Sec. 17. FINDINGS

(a) Approximately 13,000 Vermont residents are employed by the State or employed by a person contracting with the State. Reducing the impact of diet-related diseases will support a more productive and healthy workforce that will pay dividends to Vermont's economy and cultivate national competitiveness for State residents and employees.

(b) Improving the nutritional quality of food sold or provided by the State on public property will support people in making healthy eating choices.

(c) State properties are visited by Vermont residents and out-of-state visitors, and also provide care to dependent adults and children.

(d) Approximately 25 percent of Vermont residents are overweight or obese.

(e) Obesity costs Vermont $291 million each year in health care costs, contributing to debilitating yet preventable diseases, such as heart disease, cancer, stroke, and diabetes.

(f) Improving the types of foods and beverages served and sold in workplaces positively affects employees' eating behaviors and can result in weight loss.

(g) Maintaining a healthy workforce can positively affect indirect costs by reducing absenteeism and increasing worker productivity.

Sec. 18. 29 V.S.A. § 160c is added to read:

§ 160c. NUTRITION PROCUREMENT STANDARDS

(a)(1) The Commissioner of Health shall establish and post on the Department's website nutrition procurement standards that:

(A) consider relevant guidance documents, including those published by the U.S. General Services Administration, the American Heart Association, and the National Alliance for Nutrition and Activity and, upon request, the Department shall provide a rationale for any divergence from these guidance documents;

(B) consider both positive and negative contributions of nutrients, ingredients, and food groups to diets, including calories, portion size, saturated fat, trans fat, sodium, sugar, and the presence of fruits, vegetables, whole grains, and other nutrients of concern in Americans' diets; and

(C) contain exceptions for circumstances in which State-procured foods or beverages are intended for individuals with specific dietary needs.

(2) The Commissioner shall review and, if necessary, amend the nutrition procurement standards at least every five years to reflect advances in nutrition science, dietary data, new product availability, and updates to federal Dietary Guidelines for Americans.

(b)(1) All foods and beverages purchased, sold, served, or otherwise provided by the State or any entity, subdivision, or employee on behalf of the

State shall meet the minimum nutrition procurement standards established by the Commissioner of Health.

(2) All bids and contracts between the State and food and beverage vendors shall comply with the nutrition procurement standards. The Commissioner, in conjunction with the Commissioner of Buildings and General Services, may periodically review or audit a contracting food or beverage vendor's financial reports to ensure compliance with this section.

(c) The Governor's Health in All Policies Task Force may disseminate information to State employees on the Commissioner's nutrition procurement standards.

(d) All State-owned or -operated vending machines, food or beverage vendors contracting with the State, or cafeterias located on property owned or operated by the State shall display nutritional labeling to the extent permitted under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. ch. 9 § 301 et seq.

(e) The Commissioner of Buildings and General Services shall incorporate the nutrition procurement standards established by the Commissioner into the appropriate procurement document.

Sec. 19. EXISTING PROCUREMENT CONTRACTS

To the extent possible, the State's existing contracts and agreements with food and beverage vendors shall be modified to comply with the nutrition procurement standards established by the Commissioner of Health.

* * * Universal Primary Care and Dr. Dynasaur 2.0 * * *

Sec. 20. UNIVERSAL PRIMARY CARE; DR. DYNASAUR 2.0

(a) Regardless of any future developments in payment and delivery system reform, Vermont is likely to continue to have uninsured or underinsured residents. Expanding access to primary care services is a proven method for improving population health. It is the intent of the General Assembly to move forward with implementation of universal primary care for all Vermonters or expansion of Dr. Dynasaur to all Vermont residents up to 26 years of age, or both.

(b)(1) In order to determine a path forward toward implementing universal primary care in Vermont, the Secretary of Administration shall:

(A) provide the results of a literature review of any savings realized by universal health care programs over time that are attributable to the availability of universal access to primary care;

(B) determine the impacts on the individual, small group, and large group health insurance markets of providing primary care through a universal, publicly funded program; and

(C) report on primary care payment models created through the development of the all-payer model in order to enable legislators to estimate appropriate reimbursement amounts for health care providers delivering primary care services.

(2) On or before November 15, 2016, the Secretary of Administration shall provide to the Joint Fiscal Office a summary of its findings on the topics described in subdivision (1) of this subsection. The Joint Fiscal Office shall conduct an independent review of the methods and assumptions underlying the Secretary's findings and shall provide its comments and feedback to the Secretary on or before December 1, 2016. On or before December 15, 2016, the Secretary shall provide to the Health Reform Oversight Committee, the Joint Fiscal Committee, the House Committees on Health Care, on Appropriations, and on Ways and Means, and the Senate Committees on Health and Welfare, on Appropriations, and on Finance a final report on the literature review, market impacts, and primary care models required by subdivision (1) of this subsection.

(c)(1) In order to determine a path forward toward expanding Dr. Dynasaur to all Vermont residents up to 26 years of age, the Secretary of Administration shall analyze the financial implications of expanding Dr. Dynasaur, the State's children's Medicaid and Children's Health Insurance Program, to all Vermont residents up to 26 years of age.

(2)(A) Estimated program costs shall include the cost of coverage, one-time and ongoing operating costs, administrative costs, and reserves or reinsurance to the extent they are deemed advisable.

(B) The cost estimates shall be for a period of five years beginning on January 1, 2019, and shall assume a reasonable rate of health care spending growth.

(C) Estimated costs shall be offset by any cost reductions to State government spending and by any avoided State or federal tax liability that the State of Vermont would otherwise incur as an employer.

(D) The cost estimates shall include an analysis of any cost increases or reductions anticipated for municipalities and school districts, including impacts on projected education spending.

(E) The cost estimates shall project increasing provider reimbursement rates at regular intervals from 100 percent of Medicare rates up

to commercial rates. Medicare and commercial rates shall be determined based on claims data from the Vermont's all-payer claims database.

(3)(A) On or before January 15, 2017, the Secretary shall submit a report to the House Committees on Health Care, on Appropriations, and on Ways and Means and the Senate Committees on Health and Welfare, on Appropriations, and on Finance comprising its analysis of the costs of expanding Dr. Dynasaur to all Vermont residents up to 26 years of age and potential plans for financing the expansion. The financing plans shall be consistent with the principles of equity expressed in 18 V.S.A. § 9371(11), which states that financing of health care in Vermont must be sufficient, fair, predictable, transparent, sustainable, and shared equitably. In developing the financing plans, the Secretary shall consider the following:

(i) all current sources of funding for State government, including taxes, fees, and assessments;

(ii) existing health care revenue sources, including the claims tax levied pursuant to 32 V.S.A. chapter 243, the provider assessments imposed pursuant to 33 V.S.A. chapter 19, subchapter 2, and the employer assessment required pursuant to 21 V.S.A. chapter 25, to determine whether they are suitable for preservation or expansion to fund the program expansion;

(iii) new revenue sources such as a payroll tax, gross receipts tax, or business enterprise tax, or a combination of these;

(iv) expansion or reform of existing taxes;

(v) opportunities and challenges presented by federal law, including the Internal Revenue Code; Section 1332 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and Titles XIX (Medicaid) and XXI (SCHIP) of the Social Security Act, and by State tax law; and

(vi) anticipated federal funds that may be used for health care services, including consideration of methods to maximize receipt of federal funds available for this purpose.

(B) The Secretary's report shall also include information on the impacts of the coverage and proposed tax changes on individuals, households, businesses, public sector entities, and the nonprofit community, including migration of coverage, insurance market impacts, financial impacts, federal tax implications, and other economic effects. The impact assessment shall cover the same five-year period as the cost estimates.

(4) Agencies, departments, boards, and similar units of State government, including the Agency of Human Services, Department of Financial Regulation, Department of Labor, Director of Health Care Reform, and Green Mountain Care Board, shall provide information and assistance requested by the Secretary and the Secretary's contractors to enable them to conduct the analysis required by this act.

(5) The Secretary shall provide periodic updates to the Joint Fiscal Office on the estimates and analysis required by this subsection and his or her underlying fiscal assumptions.

(d)(1) The Secretary may contract with other individuals and entities as needed to provide actuarial services, economic modeling, and any other assistance the Secretary requires in carrying out the analyses described in subsections (b) and (c) of this section.

(2) To the extent necessary to conduct the analyses required by subsections (b) and (c) of this section and consistent with the requirements of the Health Insurance Portability and Accountability Act of 1996, a health insurer licensed to do business in Vermont shall provide information requested by the Secretary or the Secretary's contractors within 30 days of the request, to the extent feasible and upon receipt by the health insurer of a nondisclosure agreement from the State and its contractors. The Secretary may enter into a confidentiality agreement with an insurer if the data requested includes proprietary or other confidential material. No health insurer shall be required to provide protected health information.

* * * Exchange Sustainability Analysis * * *

Sec. 21. VERMONT HEALTH BENEFIT EXCHANGE TECHNOLOGY; SUSTAINABILITY ANALYSIS; REPORT

(a)(1) The Joint Fiscal Office, in collaboration with one or more independent third parties pursuant to contracts negotiated for that purpose, shall conduct an analysis and provide a report to the General Assembly on or before December 1, 2016 on the current functionality and long-term sustainability of the technology for Vermont's Health Benefit Exchange, including a review of the deficiencies in Vermont Health Connect functionality and the integration, connectivity, and business logic of each as they pertain to both the back-end systems and the user interface of Vermont Health Connect.

(2) The analysis shall provide recommendations for improving the functionality, efficiency, reliability, operations, and customer experience of the technology going forward.

(3) The report shall include an evaluation of the investment value of existing components of the Exchange technology and the contractor's assessment of the feasibility and cost-effectiveness of leveraging existing components of the Vermont Health Benefit Exchange as part of the technology for a larger, integrated eligibility system, including reviewing changes other states have made to the Exchange components of their technology infrastructure.

(4) The analysis and report shall provide a comparison of the investments required to ensure a sustainable State-based Exchange through further investment in Vermont Health Connect's current technology, including any opportunities to build on other states' Exchange technology and opportunities to join with other states in a regional Exchange, with the estimated investments that would be required to transition to a fully or partially federally facilitated Exchange.

(b) In conducting the analysis and report pursuant to this section, and in preparing any requests for proposals from independent third parties, the Joint Fiscal Office shall consult with health insurers offering qualified health plans on Vermont Health Connect.

(c) The Health Reform Oversight Committee and the Joint Fiscal Committee shall provide ongoing oversight and review of the analysis and report.

* * * Health Research Commission * * *

Sec. 22. 2 V.S.A. chapter 27 is added to read:

CHAPTER 27. HEALTH RESEARCH COMMISSION

§ 961. CREATION OF COMMISSION

(a) There is established the Health Research Commission to coordinate and provide oversight over legislative policy research, studies, and evaluations related to health care delivery, regulation, and reform.

(b) Members of the Commission shall include two members of the House of Representatives appointed by the Speaker of the House, two members of the Senate appointed by the Senate Committee on Committees, and one member appointed by the Governor.

(c) The Commission may meet as needed. For attendance at meetings during adjournment of the General Assembly, legislative members of the Commission shall be entitled to per diem compensation and reimbursement of expenses pursuant to section 406 of this title. The member appointed by the Governor shall be entitled to per diem compensation and reimbursement of

expenses pursuant to 32 V.S.A. § 1010 if he or she is not a full-time State employee.

§ 962. EMPLOYEES; BUDGET

(a) The Commission shall meet promptly following the appointment of its members in order to organize and begin conducting its business. The Commission may adopt its own rules for the operation of its personnel.

(b)(1) The Commission shall employ professional and secretarial staff as needed to carry out its functions and shall determine their compensation subject to legislative appropriation.

(2)(A) All requests for assistance, information, and advice from the Commission and all information the Commission receives in connection with research or related studies is exempt from public inspection and copying under the Public Records Act and shall be kept confidential unless the party requesting assistance or providing information specifies otherwise. All Commission reports, documents, and transcripts or minutes of Commission meetings, including written testimony submitted to the Commission, are not confidential under this subdivision.

(B) The staff of the Commission may sign data use agreements and confidentiality agreements on the Commission's behalf in order to collect the data, including health care claims and tax information, needed to carry out the duties of the Commission. Data collected by Commission staff may be used only for the purposes of studies and evaluation. Appropriate data standards shall be maintained to ensure confidentiality.

(c) The Commission shall prepare a budget as part of the Joint Fiscal Committee's budget.

(d) The Commission shall receive administrative, fiscal, and legal support from the Joint Fiscal Office and the Legislative Council. In addition, the Commission may retain the services of one or more consultants or experts knowledgeable in health care systems, financing, or delivery to assist in its work within the amounts appropriated in its budget.

§ 963. FUNCTIONS

The Commission shall direct, supervise, and coordinate the work of its staff, which shall include:

(1) furnishing policy research and evaluation services, including coordinating contracts with consultants, related to health care for studies required by legislation enacted by the General Assembly;

(2) engaging in a continuing review of the State's health care reform initiatives;

(3) monitoring the activities of the Green Mountain Care Board on behalf of the General Assembly; and

(4) keeping and maintaining minutes of its meetings.

Sec. 23. POSITIONS

On or before July 1, 2016, up to three positions and appropriate amounts for personal services and operating expenses shall be transferred from the Agency of Administration to the General Assembly to provide staff for the Health Research Commission established in Sec. 22 of this act.

Sec. 24. APPOINTMENTS TO THE HEALTH RESEARCH COMMISSION

The Speaker of the House of Representatives, the Senate Committee on Committees, and the Governor shall appoint the first members of the Health Research Commission established pursuant to 2 V.S.A. chapter 27 on or before August 15, 2016.

* * * Appropriations * * *

Sec. 25. APPROPRIATIONS

(a) The sum of $240,000.00 is appropriated from the General Fund to the Secretary of Administration in fiscal year 2017 to support the universal primary care and Dr. Dynasaur expansion studies and reports pursuant to Sec. 20 of this act.

(b) The sum of $250,000.00 is appropriated from the General Fund to the General Assembly in fiscal year 2017 for purposes of the Health Research Commission established pursuant to 2 V.S.A. chapter 27.

Sec. 26. FISCAL YEAR 2016; REVERSIONS; APPROPRIATIONS

(a) Notwithstanding any provision of law to the contrary, and in addition to any other reversions in fiscal year 2016, the following amounts appropriated in fiscal year 2016 to the following sources shall revert to the General Fund:

(1) from the Office of the State Treasurer, the amount of $115,000.00;

(2) from the Green Mountain Care Board, the amount of $109,320.00.

(b) The amount of $224,320.00 is appropriated in fiscal year 2016 from the General Fund to the Joint Fiscal Office for the purpose of implementing Sec. 21 of this act.

Sec. 27. FISCAL YEAR 2017; APPROPRIATION; ALLOCATION

(a) Of the amounts appropriated in fiscal year 2017 from the General Fund to the Agency of Agriculture, Food and Markets, the amount of $175,680.00 is appropriated from the Agency to the Joint Fiscal Office for the purpose of implementing Sec. 21 of this act.

(b) The Commissioner of Finance and Management shall exercise his or her authority pursuant to 32 V.S.A. § 511 (allocation of excess receipts) to allocate $175,680.00 to the Agency of Agriculture, Food and Markets.

* * * Repeal * * *

Sec. 28. REPEAL

2 V.S.A. chapter 20 (Health Reform Oversight Committee) is repealed on January 1, 2017.

* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES

(a) Secs. 2 (all-payer model) and 3–5 (ACOs) shall take effect on January 1, 2018.

(b) Secs. 17–19 (nutrition procurement standards), 25 (FY17 appropriations) and 27 (FY17 appropriation and allocation) shall take effect on July 1, 2016.

(c) This section and the remaining sections shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 16, 2016, pages 441-449 and March 17, 2016, page 486)

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

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Health and Welfare with the following amendments thereto:

First: In Sec. 1, all-payer model; Medicare agreement, by striking out subdivision (4) in its entirety and inserting in lieu thereof a new subdivision (4) to read as follows:

(4) allows Medicare patients to choose any Medicare-participating provider;

Second: In Sec. 2, in 18 V.S.A. § 9551, by striking out subdivision (6) in its entirety and inserting in lieu thereof a new subdivision (6) to read as follows:

(6) adheres to federal and State laws on parity of mental health and substance abuse treatment, integrates mental health and substance abuse treatment systems into the overall health care system, and does not manage mental health or substance abuse care separately from other health care except as appropriate to the mental health and substance abuse services provided by or through the Departments of Health and of Mental Health;

Third: In Sec. 2, in 18 V.S.A. § 9551, in subdivision (7), following "emergency medical service providers,", by inserting adult day service providers,

Fourth: In Sec. 5, 18 V.S.A. § 9382, in subdivision (a)(14), following "health care", by inserting or community-based

Fifth: In Sec. 5, 18 V.S.A. § 9382, in subdivision (b)(1)(J), following "(ACEs)", by inserting and other traumas

Sixth: In Sec. 5, 18 V.S.A. § 9382, by striking out subdivision (b)(2) in its entirety and inserting in lieu thereof a new subdivision (b)(2) to read as follows:

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

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

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

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

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

(B) The Office of the Health Care Advocate shall not disclose further any confidential or proprietary information provided to the Office pursuant to this subdivision (2).

Seventh: By striking out Secs. 20, universal primary care; Dr. Dynasaur 2.0; 21, Exchange sustainability analysis; 22–24, Health Research

Commission; 25–27, appropriations; and 28, repeal, and their reader assistance headings in their entirety and by renumbering Sec. 29, effective dates, to be Sec. 20

Eighth: In the renumbered Sec. 20, effective dates, in subsection (b), by striking out ", 25 (FY17 appropriations), and 27 (FY17 appropriation and allocation)"

(Committee vote: 5-1-1)

H. 869.

An act relating to judicial organization and operations.

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

* * * Judicial Masters * * *

Sec. 1. 4 V.S.A. § 38 is added to read:

§ 38. JUDICIAL MASTERS

(a) The Administrative Judge may appoint a licensed Vermont lawyer who has been engaged in the practice of law in Vermont for at least the last five years to serve as a Judicial Master. The Judicial Master shall be an employee of the Judiciary and be subject to the Code of Judicial Conduct. A Judicial Master shall not engage in the active practice of law for remuneration while serving in this position. In making this appointment, the Administrative Judge shall apply the criteria and standards for judicial appointments contained in section 601 of this title. The Judicial Master may hear and decide matters as designated by the Administrative Judge in the Civil, Criminal, and Family Divisions as described herein:

(1) In the Civil Division of the Superior Court, pre- and post-trial matters, as approved by the presiding judge, including rent escrow orders, discovery orders, sanctions not including requests for dismissal, and financial disclosure hearings; the Master shall not hear requests for injunctive relief, motions for summary judgment, a motion to dismiss for failure to state a claim, or an involuntary dismissal.

(2) In the Criminal Division of the Superior Court, proceedings in treatment court dockets, as approved by the presiding judge, to assure compliance with court orders, including attendance and participation with a treatment plan, imposition of sanctions and incentives, including incarceration

in the course of the program and dismissal from the program due to noncompliance; the Master shall not have authority to accept pleas or to impose sentences, to hear motions to suppress, or to dismiss for lack of a prima facie case.

(3) In the Family Division of the Superior Court, in juvenile proceedings, as approved by the presiding judge, to assure compliance with existing court orders, including attendance and participation in substance abuse, mental health, and other court-ordered counseling; compliance with and modification of parent-child contact; to act as the administrative body to conduct permanency hearings pursuant to 33 V.S.A. § 5321(g) unless a contested permanency hearing becomes necessary; and to provide case management of juvenile proceedings; the Master shall not have the authority to hear temporary care hearings, requests for juvenile protective orders, or hearings on the merits, or to conduct disposition hearings.

(4) In the Family Division of the Superior Court, proceedings, with the approval of the presiding judge, to assure compliance with existing court orders relating to parent-child contact; to act as a Master pursuant to Rule 53 of the Vermont Rules of Civil Procedure where no order has been made pursuant to 32 V.S.A. § 1758(b); and to provide case management of proceedings with 15 V.S.A. chapters 5, 11, 15, and 18; the Master shall not have authority to determine divorce or parentage actions, parental rights and responsibilities, or spousal maintenance, or modifications of such orders.

(b) The Judicial Master may be appointed to serve as an acting judge pursuant to subsection 22(b) of this title in any matter in which he or she has not previously acted as a Judicial Master.

(c) The decision of a Judicial Master under this section shall have the same effect as a decision of a Superior judge, except when acting as a Master pursuant to subdivision (a)(4) of this section.

Sec. 2. REPEAL

4 V.S.A. § 38 (Judicial Masters) shall be repealed on July 1, 2019.

* * * Venue in TPR Cases * * *

Sec. 3. LEGISLATIVE INTENT

The General Assembly does not intend Sec. 4 of this act, which amends 4 V.S.A. § 37 to permit regional venue in proceedings involving the termination of parental rights (TPR), to result in the closure of any Vermont courts. Sec. 4 is intended to permit greater flexibility in the TPR process, in response to the findings and recommendations made by the Committee on

Child Protection in 2014, and it may, in fact, result in an increase rather than a decrease in court proceedings for some jurisdictions.

Sec. 4. 4 V.S.A. § 37 is amended to read:

§ 37. VENUE

(a) The venue for all actions filed in the ~~superior court~~ Superior Court, whether heard in the ~~civil, criminal, family, environmental, or probate division~~ Civil, Criminal, Family, Environmental, or Probate Division, shall be as provided in law.

(b) Notwithstanding any other provision of law, the ~~supreme court~~ Supreme Court may promulgate venue rules, subject to review by the legislative committee on judicial rules under 12 V.S.A. chapter 1 ~~of Title 12~~, which are consistent with the following policies:

(1) Proceedings involving a case shall be heard in the unit in which the case was brought, subject to the following exceptions:

(A) when the parties have agreed otherwise;

(B) status conferences, minor hearings, or other nonevidentiary proceedings; or

(C) when a change in venue is necessary to ensure access to justice for the parties or required for the fair and efficient administration of justice.

(2) The electronic filing of cases on a statewide basis should be facilitated, and the ~~court~~ Court is authorized to promulgate rules establishing an electronic case-filing system.

(3) The use of technology to ease travel burdens on citizens and the courts should be promoted. For example, venue requirements should be deemed satisfied for some court proceedings when a person, including a judge, makes an appearance via video technology, even if the judge is not physically present in the same location as the person making the appearance.

(4) In proceedings involving the termination of parental rights, the Supreme Court is authorized to designate a region of no more than four counties in which the venue for specified types of cases in the region shall be the region as a whole, irrespective of the county in which the venue would lie for the case under the governing statute. A designation under this subdivision shall be made by rule and shall be reviewed by the Legislative Committee on Judicial Rules pursuant to 12 V.S.A. § 1.

* * * Licensing Board Appeals * * *

Sec. 5. 3 V.S.A. § 130a is amended to read:

§ 130a. APPEALS FROM BOARD DECISIONS

(a) A party aggrieved by a final decision of a board may, within 30 days of the decision, appeal that decision by filing a notice of appeal with the Director who shall assign the case to an appellate officer. The review shall be conducted on the basis of the record created before the board. In cases of alleged irregularities in procedure before the board, not shown in the record, proof on that issue may be taken by the appellate officer.

* * *

(c) A party aggrieved by a decision of the appellate officer may appeal to the ~~Superior Court in Washington County~~ Supreme Court, which shall review the matter on the basis of the records created before the board and the appellate officer.

* * * Transportation Board Appeals * * *

Sec. 6. 19 V.S.A. § 5 is amended to read:

§ 5. TRANSPORTATION BOARD; POWERS AND DUTIES

* * *

(c) The Board may delegate the responsibility to hear quasi-judicial matters, and other matters as it may deem appropriate, to a hearing examiner or a single Board member, to hear a case and make findings in accordance with 3 V.S.A. chapter 25, except that highway condemnation proceedings shall be conducted pursuant to the provisions of chapter 5 of this title. A hearing examiner or single Board member so appointed shall report his or her findings of fact in writing to the Board. Any order resulting therefrom shall be rendered only by a majority of the Board. Final orders of the Board issued pursuant to section 20 of this title may be reviewed on the record by a Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure. All other final orders of the Board may be reviewed on the record by the Supreme Court.

* * *

* * * Accessibility and Efficiency of Court System * * *

Sec. 7. ACCESS TO JUSTICE; COLLABORATIVE PROCESS

The Supreme Court shall coordinate a collaborative process with its justice partners, including the Vermont Bar Association, the Department of State's Attorneys and Sheriffs, the Office of the Defender General, the Office of the Attorney General, the Department for Children and Families, and the Vermont

Association for Justice, in an effort to identify court system reforms that promote efficient use of judicial resources and allocation of costs while preserving access to justice and maintaining the quality of court services. The Court shall report the proposals developed in the collaborative process to the House and Senate Committees on Judiciary on or before December 15, 2016.

* * * Judiciary Service Center * * *

Sec. 8. DISCONTINUATION OF JUDICIARY SERVICE CENTER

On or before June 30, 2016, the Vermont Supreme Court shall discontinue use of the Judiciary Service Center to respond to communications from Vermont attorneys.

* * * Effective Dates * * *

Sec. 9. EFFECTIVE DATES

(a) Secs. 1, 2, 3, 4, 7, 8, and this section shall take effect on passage.

(b) Secs. 5 and 6 shall take effect on July 1, 2016 and shall apply to appeals filed on or after that date.

(Committee vote: 5-0-0)

(No House amendments)

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

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

First: By striking out Secs. 3 and 4 in their entirety

Second: By inserting a new Sec. 3. to read as follows:

Sec. 3. JOINT COMMITTEE ON CHILD PROTECTION; 2016 STUDY ITEM

During 2016 the Joint Legislative Committee on Child Protection shall study how best to utilize courts that are currently under-utilized in order to improve the flexibility and efficiency of judicial proceedings involving the termination of parental rights.

And by renumbering the remaining sections to be numerically correct.

(Committee vote: 5-0-2)

J.R.H. 26.

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

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

The Committee recommends that the Senate propose to the House to amend the resolution by striking out the ninth whereas clause in its entirety and inserting in lieu thereof the following:

Whereas, significant health risks to Vermonters exist as a result of pollution from factories closed more than a decade ago, and

(Committee vote: 5-0-0)

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

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

House Proposal of Amendment

S. 189

An act relating to foster parents' rights and protections.

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

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

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

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

And by renumbering the remaining subdivisions to be numerically correct

House Proposal of Amendment

S. 215

An act relating to the regulation of vision insurance plans.

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

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

* * *

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

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

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

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

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

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

(g) As used in this section:

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

(2) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer or a subcontractor of a health insurer,

as well as Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term includes vision care plans but does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

* * *

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

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

House Proposal of Amendment

S. 216

An act relating to prescription drug formularies.

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. FINDINGS

The General Assembly finds that:

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

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

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

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

§ 4635. PHARMACEUTICAL COST TRANSPARENCY

(a) As used in this section:

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

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

(b) The Green Mountain Care Board, in collaboration with the Department of Vermont Health Access, shall identify annually up to 15 prescription drugs on which the State spends significant health care dollars and for which the

wholesale acquisition cost has increased by 50 percent or more over the past five years or by 15 percent or more over the past 12 months, creating a substantial public interest in understanding the development of the drugs' pricing. The drugs identified shall represent different drug classes, with some of the drugs being generic drugs, some brand-name drugs, and some specialty drugs. The Board shall provide the list of prescription drugs to the Office of the Attorney General.

(c)(1) For each prescription drug identified pursuant to subsection (b) of this section, the Office of the Attorney General shall require the drug's manufacturer to provide a justification for the increase in the wholesale acquisition cost of the drug in a format that the Attorney General determines to be understandable and appropriate. The manufacturer shall submit to the Office of the Attorney General all relevant information and supporting documentation necessary to justify the manufacturer's wholesale acquisition cost increase, including:

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

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

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

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

(d) The Attorney General, in consultation with the Department of Vermont Health Access, shall provide a report to the General Assembly on or before December 1 of each year based on the information received from manufacturers pursuant to this section. The Attorney General shall also post the report on the Office of the Attorney General's website.

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

Sec. 3. PRESCRIPTION DRUG FORMULARIES; RULEMAKING

On or before January 1, 2017, the Commissioner of Financial Regulation shall adopt rules pursuant to 3 V.S.A. chapter 25 to require all health insurers

that offer health benefit plans to Vermont residents through the Vermont Health Benefit Exchange to provide information to enrollees, potential enrollees, and health care providers about the Exchange plans' prescription drug formularies. The rules shall ensure that the formulary is posted online in a standard format established by the Department of Financial Regulation; that the formulary is updated frequently and is searchable by enrollees, potential enrollees, and health care providers; and that it includes information about the prescription drugs covered, applicable cost-sharing amounts, drug tiers, prior authorization, step therapy, and utilization management requirements.

Sec. 4. 340B DRUG REIMBURSEMENT; REPORT

(a) The Department of Vermont Health Access shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) a representative of the American Cancer Society;

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

(9) a Vermont Health Connect navigator.

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

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

(d)(1) Prior to the date on which qualified health plan forms must be filed with the Department of Financial Regulation pursuant to 8 V.S.A. § 4062, a health insurer offering qualified health benefit plans on the Vermont Health Benefit Exchange shall seek approval from the Green Mountain Care Board to modify the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i for one or more nonstandard bronze-level plans. In considering an insurer's request, the Green Mountain Care Board shall provide an opportunity for the advisory group established in subsection (a) of this section, and any other interested party, to comment on the recommended modifications.

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

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

bronze-level qualified health benefit plans with modifications to the out-of-pocket prescription drug limit established in 8 V.S.A. § 4089i for the 2018 plan year only.

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

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

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

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

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

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

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

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

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

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

Sec. 6. EFFECTIVE DATE

(a) This bill shall take effect on passage.

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

An act relating to prescription drugs

House Proposal of Amendment

S. 230

An act relating to improving the siting of energy projects.

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

* * * Designation * * *

Sec. 1. DESIGNATION OF ACT

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

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

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

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

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

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

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

§ 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING COMMISSIONS

Any regional planning commission created under this chapter may:

* * *

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

* * *

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

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

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

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

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

* * *

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

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

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

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

§ 4352. OPTIONAL DETERMINATION OF ENERGY COMPLIANCE; ENHANCED ENERGY PLANNING

(a) Regional plan. A regional planning commission may submit its adopted regional plan to the Commissioner of Public Service appointed under

30 V.S.A. § 1 for a determination of energy compliance. The Commissioner shall issue such a determination in writing on finding that the regional plan meets the requirements of subsection (c) of this section and allows for the siting in the region of all types of renewable generation technologies.

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

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

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

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

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

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

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

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

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

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

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

(d) State energy plans; recommendations; standards.

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

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

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

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

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

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

(f) Appeal. A regional planning commission aggrieved by an act or decision of the Commissioner of Public Service under this section may appeal to the Natural Resources Board established under 10 V.S.A. chapter 151 within

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

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

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

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

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

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

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

§ 202. ELECTRICAL ENERGY PLANNING

* * *

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

* * *

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

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

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

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

(d) In establishing plans, the Director shall:

(1) Consult with:

(A) the public;

(B) Vermont municipal utilities and planning commissions;

(C) Vermont cooperative utilities;

(D) Vermont investor-owned utilities;

(E) Vermont electric transmission companies;

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

(G) industrial customer representatives;

(H) commercial customer representatives;

(I) the Public Service Board;

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

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

(L) other energy providers; and

(M) the regional planning commissions.

* * *

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

* * *

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

* * *

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

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

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

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

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

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

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

* * *

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

* * *

Sec. 9. INITIAL IMPLEMENTATION; RECOMMENDATIONS; STANDARDS

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

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

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

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

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

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

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

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

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

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

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

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

(8) identification of potential areas for the development and siting of renewable energy resources and of the potential electric generation from such resources in the identified areas, taking into account factors including resource availability, environmental constraints, and the location and capacity of electric grid infrastructure; and

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

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

Sec. 10. TRAINING

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

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

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

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

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

* * *

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

(A) no company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may begin site preparation for or construction of an electric generation facility or electric transmission facility within the State which is designed for immediate or eventual operation at any voltage; and

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

* * *

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

* * *

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

* * *

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) ~~with~~ With respect to a ground-mounted solar electric generation facility, the facility shall comply with the screening requirements of a municipal bylaw adopted under 24 V.S.A. § 4414(15) or a municipal ordinance adopted under 24 V.S.A. § 2291(28), and the recommendation of a municipality applying such a bylaw or ordinance, unless the Board finds that requiring such compliance would prohibit or have the effect of prohibiting the installation of such a facility or have the effect of interfering with the facility's intended functional use.

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

* * *

(5) With respect to an in-state facility, will not have an undue adverse effect on ~~esthetics~~ aesthetics, historic sites, air and water purity, the natural

environment, the use of natural resources, and the public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K), impacts to primary agricultural soils as defined in 10 V.S.A. § 6001, and greenhouse gas impacts.

* * *

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

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

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

* * *

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

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

Sec. 12. SOUND STANDARDS; WIND GENERATION

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

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

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

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

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

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

§ 8010. SELF-GENERATION AND NET METERING

* * *

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

* * *

(3) The rules shall establish standards and procedures governing application for and issuance or revocation of a certificate of public good for net metering systems under the provisions of section 248 of this title. In establishing these standards and procedures~~, the rules~~:

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

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

(C) The rules shall seek to simplify the application and review process as appropriate~~; and~~, including simplifying the application and review process to encourage group net metering systems when the system is at least 50 percent owned by the customers who receive the bill credits for the electricity generated by the system.

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

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

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

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

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

* * *

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

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

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

(1) Total renewable energy.

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

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

* * *

(D) Municipal providers; petition. On petition by a provider that is a municipal electric utility serving not more than 6,000 customers, the Board

may reduce the provider's required amount under this subdivision (1) for a period of up to three years. The Board may approve one such period only for a municipal provider. The Board may reduce this required amount if it finds that:

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

(ii) this purchase will:

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

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

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

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

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

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

(2) The Commissioner of Public Service or designee.

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

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

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

(b) Powers and duties; term.

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

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

Resources and Energy, the Senate Committee on Finance, and the Joint Energy Committee.

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

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

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

* * * Effective Dates * * *

Sec. 16. EFFECTIVE DATES

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

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

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

House Proposal of Amendment to Senate Proposal of Amendment

H. 845

An act relating to legislative review of certain report requirements.

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

By striking out Sec. 10 in its entirety and by inserting in lieu thereof:

Sec. 10. [Deleted.]

CONCURRENT RESOLUTIONS FOR ACTION

S.C.R. 43 (For text of Resolution, see Addendum to Senate Calendar for April 28, 2016)

H.C.R. 363-378 (For text of Resolutions, see Addendum to House Calendar for April 28, 2016)

CONFIRMATIONS

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

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).