Senate Calendar

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UNFINISHED BUSINESS OF THURSDAY, MAY 5, 2016

House Proposal of Amendment

S. 55

An act relating to creating a flat rate for Vermont's estate tax and creating an estate tax exclusion amount that matches the federal amount.

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:

* * * Estate Taxes * * *

Sec. 1. 32 V.S.A. § 7402 is amended to read:

§ 7402. DEFINITIONS

The following definitions shall apply throughout this chapter unless the context requires otherwise:

(1) "Commissioner" means the Commissioner of Taxes appointed under section 3101 of this title.

(2) "Executor" means the executor or administrator of the estate of the decedent, or, if there is no executor or administrator appointed, qualified and acting within Vermont, then any person in actual or constructive possession of any property of the decedent.

(3) "Federal estate tax liability" means for any decedent's estate, the federal estate tax payable by the estate under the laws of the United States after the allowance of all credits against such estate tax provided thereto by the laws of the United States.

(4) ~~"Federal gift tax liability" means for any taxpayer and any calendar year, the federal gift tax payable by the taxpayer for that calendar year under the laws of the United States.~~ [Repealed.]

(5) "Federal gross estate" means the gross estate as determined under the laws of the United States.

(6) "Federal taxable estate" means the taxable estate as determined under the laws of the United States.

(7) "Federal taxable gifts" means taxable gifts as determined under the laws of the United States.

(8) "Laws of the United States" means~~, for any taxable year, the statutes of the United States relating to the federal estate or gift taxes, as the case may be, effective for the calendar year or taxable estate, but with the credit for State death taxes under 26 U.S.C. § 2011, as in effect on January 1, 2001, and without any deduction for State death taxes under 26 U.S.C. § 2058~~ the U.S. Internal Revenue Code of 1986, as amended through December 31, 2015. As used in this chapter, "Internal Revenue Code" shall have the same meaning as "laws of the United States" as defined in this subdivision.

(9) "Nonresident of Vermont" means a person whose domicile is not Vermont.

(10) "Resident of Vermont" means a person whose domicile is Vermont.

(11) "Taxpayer" means the executor of an estate, the estate itself, the donor of a gift, or any person or entity or combination of these who is liable for the payment of any tax, interest, penalty, fee, or other amount under this chapter.

(12) ~~"Vermont gifts" means, for any calendar year, all transfers by gift, excluding transfers by gift of tangible personal property and real property which have a situs outside Vermont, and also excluding all transfers by gift made by nonresidents of Vermont which take place outside Vermont.~~ [Repealed.]

(13) "Vermont gross estate" means for any decedent the value of the federal gross estate as provided under ~~the laws of the United States~~ Section 2031 of the Internal Revenue Code, excluding the value of ~~real or tangible personal~~ property which has ~~an actual~~ its situs outside Vermont ~~at the time of death of the decedent, and also excluding in the case of a nonresident of Vermont the value of intangible personal property owned by the decedent~~.

(14) "Vermont taxable estate" means the ~~value of the Vermont gross estate, reduced by the proportion of the deductions and exemptions from the value of the federal gross estate allowable under the laws of the United States, which the value of the Vermont gross estate bears to the value of the federal gross estate.~~ federal taxable estate as provided under Section 2051 of the Internal Revenue Code, without regard to whether the estate is subject to the federal estate tax:

(A) Increased by the amount of the deduction for state death taxes allowed under Section 2058 of the Internal Revenue Code, to the extent deducted in computing the federal taxable estate.

(B) Increased by the amount of the deduction for foreign death taxes allowed under Section 2053(d) of the Internal Revenue Code, to the extent deducted in computing the federal taxable estate.

(C) Increased by the aggregate amount of taxable gifts as defined in Section 2503 of the Internal Revenue Code, made by the decedent within two years of the date of death. For purposes of this subdivision, the amount of the addition equals the value of the gift under Section 2512 of the Internal Revenue Code and excludes any value of the gift included in the federal gross estate.

(15) "Situs of property" means, with respect to:

(A) real property, the state or country in which it is located;

(B) tangible personal property, the state or country in which it was normally kept or located at the time of the decedent's death or for a gift of tangible personal property within two years of death, the state or country in which it was normally kept or located when the gift was executed;

(C) a qualified work of art, as defined in Section 2503(g)(2) of the Internal Revenue Code, owned by a nonresident decedent and that is normally kept or located in this State because it is on loan to an organization, qualifying as exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, that is located in Vermont, the situs of the art is deemed to be outside Vermont; and

(D) intangible personal property, the state or country in which the decedent was domiciled at death or for a gift of intangible personal property within two years of death, the state or country in which the decedent was domiciled when the gift was executed.

Sec. 2. 32 V.S.A. § 7442a is amended to read:

§ 7442a. IMPOSITION OF A VERMONT ESTATE TAX AND RATE OF TAX

(a) A tax is hereby imposed on the transfer of the ~~Vermont estate of every decedent dying on or after January 1, 2002, who, at the time of death, was a resident of this State. The base amount of this tax shall be a sum equal to the amount of the credit for State death taxes allowable to a decedent's estate under 26 U.S.C. § 2011 as in effect on January 1, 2001. This base amount shall be reduced by the lesser of the following:~~ estates of decedents as prescribed by this chapter.

~~(1) The total amount of all constitutionally valid State death taxes actually paid to other states; or~~

~~(2) A sum equal to the proportion of the credit which the value of the property taxed by other states bears to the value of the decedent's total gross estate for federal estate tax purposes.~~

(b) ~~A tax is hereby imposed on the transfer of the Vermont estate of every decedent dying on or after January 1, 2002, who, at the time of death, was not a resident of this State. The amount of this tax shall be a sum equal to the proportion of the base amount of tax under subsection (a) of this section which the value of Vermont real and tangible personal property taxed in this State bears to the value of the decedent's total gross estate for federal estate tax purposes.~~ The tax shall be computed as follows. The following rates shall be applied to the Vermont taxable estate:

Amount of Vermont Taxable Estate	Rate of Tax
Not over $2,750,000.00	None
$2,750,000.00 or more	16 percent of the excess over $2,750,000.00

The resulting amount shall be multiplied by a fraction not greater than one, where the numerator of which is the value of the Vermont gross estate plus the value of gifts under 32 V.S.A. § 7402(14)(C) with a Vermont situs, and the denominator of which is the federal gross estate plus the value of gifts under subdivision 7402(14)(C) of this title.

Sec. 3. 32 V.S.A. § 7444 is amended to read:

§ 7444. RETURN BY EXECUTOR

(a) An executor shall submit a Vermont estate tax return to the Commissioner, on a form prescribed by the Commissioner, when a decedent has an interest in property with a situs in Vermont and one or both of the following apply:

(1) A federal estate tax return is required to be filed under Section 6018 of the Internal Revenue Code; or

(2) The sum of the federal gross estate and federal adjusted taxable gifts, as defined in Section 2001(b) of the Internal Revenue Code, made within two years of the date of the decedent's death exceeds $2,750,000.00.

(b) ~~In all cases where a tax is imposed upon the estate under section 7442a of this chapter, the executor shall make a return with respect to the estate tax imposed by this chapter.~~ If the executor is unable to make a complete return as to any part of the gross estate of the decedent, he or she shall include in his or her return (to the extent of his or her knowledge or information) a description

of such part and the name of every person holding a legal or beneficial interest therein. Upon notice from the Commissioner, such person shall in like manner make a return as to such part of the gross estate. A return made by one of two or more joint fiduciaries shall be sufficient compliance with the requirements of this section. A return made pursuant to this section shall contain a statement that the return is, to the best of the knowledge and belief of the fiduciary, true and correct.

Sec. 4. 32 V.S.A. § 7475 is amended to read:

§ 7475. ~~ADOPTION OF FEDERAL ESTATE AND GIFT TAX LAWS~~

~~The laws of the United States relating to federal estate and gift taxes as in effect on December 31, 2012, are hereby adopted for the purpose of computing the tax liability under this chapter, except:~~

~~(1) the credit for State death taxes shall remain as provided for under 26 U.S.C. §§ 2011 and 2604 as in effect on January 1, 2001;~~

~~(2) the applicable credit amount shall under 26 U.S.C. § 2010 shall not apply; and the tax imposed under section 7442a of this chapter shall be calculated as if the applicable exclusion amount under 26 U.S.C. § 2010 were $2,750,000.00; and~~

~~(3) the deduction for State death taxes under 26 U.S.C. § 2058 shall not apply.~~ [Repealed.]

* * * PSB Telecommunications Siting; Municipal Role * * *

Sec. 5. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

(a) Certificate. Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the Public Service Board under this section, which the Board may grant if it finds that the facilities will promote the general good of the State consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities. An application under this section shall include a copy of each other State and local permit, certificate, or approval that has been issued for the facility under a statute, ordinance, or bylaw pertaining to the environment or land use.

(b) Definitions. As used in this section:

(1) "Ancillary improvements" means telecommunications equipment and site improvements that are primarily intended to serve a telecommunications facility, including wires or cables and associated poles to connect the facility to an electric or communications grid; fencing; equipment cabinets or shelters; emergency backup generators; and access roads.

(2) "De minimis modification" means the addition, modification, or replacement of telecommunications equipment, antennas, or ancillary improvements on a telecommunications facility or existing support structure, whether or not the structure was constructed as a telecommunications facility, or the reconstruction of such a facility or support structure, provided:

(A) the height and width of the facility or support structure, excluding equipment, antennas, or ancillary improvements, are not increased;

(B) the total amount of impervious surface, including access roads, surrounding the facility or support structure is not increased by more than 300 square feet;

(C) the addition, modification, or replacement of an antenna or any other equipment on a facility or support structure does not extend vertically more than 10 feet above the facility or support structure and does not extend horizontally more than 10 feet from the facility or support structure; and

(D) the additional equipment, antennas, or ancillary improvements on the support structure, excluding cabling, does not increase the aggregate surface area of the faces of the equipment, antennas, or ancillary improvements on the support structure by more than 75 square feet.

(3) "Good cause" means a showing of evidence that the substantial deference required under subdivision (c)(2) of this section would create a substantial shortcoming detrimental to the public good or State's interests in section 202c of this title.

(4)(A) "Limited size and scope" means:

(i) A new telecommunications facility, including any ancillary improvements, that does not exceed 140 feet in height; or

(ii) An addition, modification, replacement, or removal of telecommunications equipment at a lawfully constructed telecommunications facility or on an existing support structure, and ancillary improvements, that would result in a facility of a total height of less than 200 feet and does not increase the width of the existing support structure by more than 20 feet.

(B) For construction described in subdivision (3)(A) of this subsection to be of limited size and scope, it shall not disturb more than 10,000 square feet of earth. ~~For purposes of~~ As used in this subdivision,

"disturbed earth" means the exposure of soil to the erosive effects of wind, rain, or runoff.

(5) "Substantial deference" means that the plans and recommendations referenced under subdivision (c)(2) of this section are presumed correct, valid, and reasonable.

~~(4)~~(6) "Telecommunications facility" means a communications facility that transmits and receives signals to and from a local, State, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or State purposes and any associated support structure that is proposed for construction or installation which is primarily for communications purposes, and any ancillary improvements that are proposed for construction or installation and are primarily intended to serve the communications facilities or support structure. An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to an existing structure.

~~(5)~~(7) "Wireless service" means any commercial mobile radio service, wireless service, common carrier wireless exchange service, cellular service, personal communications service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

(c) Findings. Before the Public Service Board issues a certificate of public good under this section, it shall find that:

(1) The proposed facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, and the public's use and enjoyment of the I-89 and I-91 scenic corridors or of any highway that has been designated as a scenic road pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C. § 162, with due consideration having been given to the relevant criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K). However, with respect to telecommunications facilities of limited size and scope, the Board shall waive all criteria of this subdivision other than 10 V.S.A. § 6086(a)(1)(D)(floodways) and (a)(8)(aesthetics, scenic beauty, historic sites, rare and irreplaceable natural areas; endangered species; necessary wildlife habitat). Such waiver shall be on condition that:

(A) the Board may determine, pursuant to the procedures described in subdivision (j)(2)(A) of this section, that a petition raises a significant issue with respect to any criterion of this subdivision; and

(B) a telecommunications facility of limited size and scope shall comply, at a minimum, with the requirements of the Low Risk Site Handbook for Erosion Prevention and Sediment Control issued by the Department of Environmental Conservation, regardless of any provisions in that handbook that limit its applicability.

(2) Unless there is good cause to find otherwise, substantial deference has been given to ~~the land conservation measures in~~ the plans of the affected municipalities ~~and~~; to the recommendations of the municipal legislative bodies and the municipal ~~and regional~~ planning commissions regarding the municipal ~~and regional~~ plans~~, respectively~~; and to the recommendations of the regional planning commission concerning the regional plan. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations to which substantial deference is required under this subdivision (2) on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by the municipality in which the facility is located. A rebuttable presumption respecting compliance with the applicable plan shall be created by a letter from an affected municipal legislative body or municipal planning commission concerning compliance with the municipal plan and by a letter from a regional planning commission concerning compliance with the regional plan.

(3) If the proposed facility relates to the provision of wireless service, the proposed facility reasonably cannot be collocated on or at an existing telecommunications facility, or such collocation would cause an undue adverse effect on aesthetics.

(A) If a proposed new support structure for a new telecommunications facility that provides wireless service will exceed 50 feet in height in a cleared area or will exceed 20 feet in height above the average treeline measured within a 100-foot radius from the structure in a wooded area, the application shall identify all existing telecommunications facilities within the area to be served by the proposed structure and, for each such existing facility, shall include a projection of the coverage and an estimate of additional capacity that would be provided if the applicant's proposed telecommunications equipment were located on or at the existing facility. The applicant also shall compare each such projection and estimate to the coverage and capacity that would be provided at the site of the proposed structure.

(B) To obtain a finding that a proposed facility cannot reasonably be collocated on or at an existing telecommunications facility, the applicant must demonstrate that:

(i) collocating on or at an existing facility will result in a significant reduction of the area to be served or the capacity to be provided by

the proposed facility or substantially impede coverage or capacity objectives for the proposed facility that promote the general good of the State under subsection 202c(b) of this title;

(ii) the proposed antennas and equipment will exceed the structural or spatial capacity of the existing or approved tower or facility, and the existing or approved tower or facility cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility;

(iii) the owner of the existing facility will not provide space for the applicant's proposed telecommunications equipment on or at that facility on commercially reasonable terms; or

(iv) the proposed antennas and equipment will cause radio frequency interference that will materially impact the usefulness of other existing or permitted equipment at the existing or approved tower or facility and such interference cannot be mitigated at a reasonable cost.

* * *

(e) Notice. No less than ~~45~~ 60 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the Secretary of Natural Resources; the Secretary of Transportation; the Division for Historic Preservation; the Commissioner of Public Service and its Director for Public Advocacy; the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions.

(1) Upon motion or otherwise, the Public Service Board shall direct that further public or personal notice be provided if the Board finds that such further notice will not unduly delay consideration of the merits and that additional notice is necessary for fair consideration of the application.

(2) On the request of the municipal legislative body or the planning commission, the applicant shall attend a public meeting with the municipal legislative body or planning commission, or both, within the ~~45-day~~ 60-day notice period before filing an application for a certificate of public good. The Department of Public Service shall attend the public meeting on the request of the municipality. The Department shall consider the comments made and

information obtained at the meeting in making recommendations to the Board on the application and in determining whether to retain additional personnel under subsection (o) of this section.

(3) With the notice required under this subsection, the applicant shall include a written assessment of the collocation requirements of subdivision (c)(3) of this section, as they pertain to the applicant's proposed telecommunications facility. On the request of the municipal legislative body or the planning commission, the Department of Public Service, pursuant to its authority under subsection (o) of this section, shall retain an expert to review the applicant's collocation assessment and to conduct further independent analysis, as necessary. Within 45 days of receiving the applicant's notice and collocation assessment, the Department shall report its own preliminary findings and recommendations regarding collocation to the applicant and to all persons required to receive notice of an application for a certificate of public good under this subsection (e).

* * *

(h) Exemptions from other law.

(1) An applicant using the procedures provided in this section shall not be required to obtain a permit or permit amendment or other approval under the provisions of 24 V.S.A. chapter 117 or 10 V.S.A. chapter 151 for the facilities subject to the application or to a certificate of public good issued pursuant to this section. This exemption from obtaining a permit or permit amendment under 24 V.S.A. chapter 117 shall not affect the substantial deference to be given to a plan or recommendation based on a local land use bylaw under subdivision (c)(2) of this section.

(2) ~~Ordinances~~ An applicant using the procedures provided in this section shall not be required to obtain an approval from the municipality under an ordinance adopted pursuant to 24 V.S.A. § 2291(19) or a municipal charter that would otherwise apply to the construction or installation of facilities subject to this section ~~are preempted~~. This exemption from obtaining an approval under such an ordinance shall not affect the substantial deference to be given to a plan or recommendation based on such an ordinance under subdivision (c)(2) of this section.

(3) Disputes over jurisdiction under this section shall be resolved by the Public Service Board, subject to appeal as provided by section 12 of this title. An applicant that has obtained or been denied a permit or permit amendment under the provisions of Title 24 or 10 V.S.A. chapter 151 for the construction of a telecommunications facility may not apply for approval from the Board

for the same or substantially the same facility, except that an applicant may seek approval for a modification to such a facility.

* * *

Sec. 6. 24 V.S.A. § 4412(8)(C) is amended to read:

(C) The regulation of a telecommunications facility, as defined in 30 V.S.A. § 248a, shall be exempt from municipal approval under this chapter when and to the extent jurisdiction is assumed by the Public Service Board according to the provisions of that section. This exemption from obtaining approval under this chapter shall not affect the substantial deference to be given to a plan or recommendation based on a local land use bylaw under 30 V.S.A. § 248a(c)(2).

* * * Connectivity Initiative; Public Schools; Cellular Service * * *

Sec. 7. 30 V.S.A. § 7515b is amended to read:

§ 7515b. CONNECTIVITY INITIATIVE

(a) The ~~purpose~~ goals of the Connectivity Initiative ~~is~~ are to:

(1) ~~provide~~ Provide each service location in Vermont access to Internet service that is capable of speeds of at least 10 Mbps download and 1 Mbps upload, or the FCC speed requirements established under Connect America Fund Phase II, whichever is higher, beginning with locations not served as of December 31, 2013 according to the minimum technical service characteristic objectives applicable at that time. Within this category of service locations, priority shall be given first to unserved and then to underserved locations. As used in this section, "unserved" means a location having access to only satellite or dial-up Internet service and "underserved" means a location having access to Internet service with speeds that exceed satellite and dial-up speeds but are less than 4 Mbps download and 1 Mbps upload.

(2) Provide universal availability of mobile telecommunications service throughout the State.

(b) Any new services funded in whole or in part by monies from this Initiative shall be capable of being continuously upgraded to reflect the best available, most economically feasible service capabilities.

~~(b)~~(c) The Department of Public Service shall publish annually a list of census blocks eligible for funding based on the Department's most recent broadband mapping data. The Department annually shall solicit proposals from telecommunications service providers, alone or in partnership with one or more municipalities, to deploy broadband to eligible census blocks.

(d) The Department shall give priority to proposals that reflect the lowest cost of providing services to unserved and underserved locations~~; however~~ or that include upgrading Internet service at one or more public schools that do not have access to Internet service capable of the minimum speeds required under subdivision (a)(1) of this section. In addition, the Department shall give priority to proposals that include matching public or private funds and establish an alignment between the proposed broadband or cellular project and community goals.

(e) In addition to the priorities established in subsection (d) of this section, the Department also shall consider:

(1) the proposed data transfer rates and other data transmission characteristics of services that would be available to consumers;

(2) the price to consumers of services;

(3) the proposed cost to consumers of any new construction, equipment installation service, or facility required to obtain service;

(4) whether the proposal would use the best available technology that is economically feasible;

(5) the availability of service of comparable quality and speed; ~~and~~

(6) the objectives of the State's Telecommunications Plan;

(7) whether a public school has a percentage of students receiving free or reduced lunches that is above the State average;

(8) whether the community in which a public school is situated does not have high speed Internet connectivity; and

(9) whether the community in which a public school is situated is rural and has a percentage of households categorized as low-income that is higher than the State average.

(10) a telecommunications service provider's performance with respect to the terms of a publicly-financed grant or loan awarded by a federal or State entity for the expansion of broadband or mobile telecommunications service in Vermont.

Sec. 8. 30 V.S.A. § 7523 is amended to read:

§ 7523. RATE OF CHARGE

(a) Beginning on July 1, 2014, the rate of charge shall be two percent of retail telecommunications service.

(b) Beginning on July 1, 2016 and ending on June 30, 2021, the rate of charge established under subsection (a) of this section shall be increased by one-half of one percent of retail telecommunications service, and the monies collected from this increase shall be transferred to the Connectivity Fund established under section 7516 of this title to provide specifically additional support for the Connectivity Initiative established under section 7515b of this title.

(c) Universal Service Charges imposed and collected by the fiscal agent under this subchapter shall not be transferred to any other fund or used to support the cost of any activity other than in the manner authorized by this section and section 7511 of this title.

Sec. 9. 30 V.S.A. § 7516 is amended to read:

§ 7516. CONNECTIVITY FUND

(a) There is created a Connectivity Fund for the purpose of providing support to the High-Cost Program established under section 7515 of this chapter and the Connectivity Initiative established under section 7515b of this chapter. The fiscal agent shall determine annually, on or before September 1, the amount of monies available to the Connectivity Fund. Such funds shall be apportioned as follows: 45 percent to the High-Cost Program and 55 percent to the Connectivity Initiative.

(b) In addition to the monies transferred to the Fund pursuant to subsection (a) of this section, monies collected from one-half of one percent of the Universal Service Charge shall be allocated to the Fund specifically to provide additional support to the Connectivity Initiative, as prescribed in subsection 7523(b) of this title.

* * * VUSF; News Service; Blind and Visually Impaired * * *

Sec. 10. 30 V.S.A. § 7511 is amended to read:

§ 7511. DISTRIBUTION GENERALLY

(a)(1) As directed by the Commissioner of Public Service, funds collected by the fiscal agent, and interest accruing thereon, shall be distributed as follows:

(A) to pay costs payable to the fiscal agent under its contract with the Commissioner;

(B) to support the Vermont telecommunications relay service in the manner provided by section 7512 of this title;

(C) to support the Vermont Lifeline program in the manner provided by section 7513 of this title;

(D) to support Enhanced-911 services in the manner provided by section 7514 of this title; ~~and~~

(E) to support a telecommunications information and news service in the manner provided by section 7512a of this title; and

(F) to support the Connectivity Fund established in section 7516 of this title; and

(2) for fiscal year 2016 only, any personnel or administrative costs associated with the Connectivity Initiative shall come from the Connectivity Fund, as determined by the Commissioner in consultation with the Connectivity Board.

(b) If insufficient funds exist to support all of the purposes contained in subsection (a) of this section, the Commissioner shall allocate the available funds, giving priority in the order listed in subsection (a).

Sec. 11. 30 V.S.A. § 7512a is added to read:

§ 7512a. TELECOMMUNICATIONS NEWS SERVICE

The fiscal agent shall make distributions to the State Treasurer for a telecommunications information and news service that provides access to existing newspapers and other printed materials for individuals who are blind, visually impaired, or otherwise unable to read such printed materials. The amount of the transfer shall be determined by the Commissioner of Public Service as the amount reasonably necessary to pay the costs of a contract administered by the Department of Public Service.

* * * High-Cost Program; Eligibility; Deployment Information * * *

Sec. 12. 30 V.S.A. § 7515 is amended to read:

§ 7515. HIGH-COST PROGRAM

(a) The Universal Service Charge shall be used as a means of keeping basic telecommunications service affordable in all parts of this State, thereby maintaining universal service, and as a means of supporting access to broadband service in all parts of the State.

* * *

(i) The amount of the monthly support under this section shall be the pro rata share of available funds based on the total number of incumbent local exchange carriers in the State and reflecting each carrier's lines in service or service locations in its high-cost area or areas, as determined under subsection (e) of this section. If an incumbent local exchange carrier does not petition the Board for VETC designation, or is found ineligible by the Board or by the

Commissioner of Public Service pursuant to his or her authority under subsection (k) of this section, the share of funds it otherwise would have received under this section shall be used to support the Connectivity Initiative established in section 7515b of this chapter.

* * *

(l) Based on the recommendation of the Commissioner of Public Service, the Board may deem a company ineligible to receive monthly support under this section or revoke a company's VETC designation if he or she finds that the company or one of its affiliates has not provided adequate deployment information requested by the Director for Telecommunications and Connectivity under subsection 202e(c) of this title.

Sec. 13. PROPOSAL; SCHOOL CONNECTIVITY GRANT PROGRAM

On or before December 1, 2016, the Secretary of Education and the Director of Telecommunications and Connectivity shall propose to the General Assembly in the form of a draft bill a school connectivity grant program designed to provide competitive grants to public schools for capital costs associated with upgrading the Internet connection to a public school or purchasing hardware for infrastructure for internal Internet connections. The goal of the program is to ensure that the maximum Internet service available to the school is accessible by all personnel and students on school grounds, consistent with and supportive of educational policies and objectives. Proposed criteria shall prioritize rural communities having a percentage of households categorized as low-income that is higher than the State average, and shall seek to maximize the availability of federal matching funds.

* * * Communications Union Districts; Budget; Hearing; Date Changes * * *

Sec. 14. 30 V.S.A. § 3075 is amended to read:

§ 3075. BUDGET

(a) Annually, ~~not later than September 15~~ on or before October 21, the board shall approve and cause to be distributed to the legislative body of each district member for review and comment an annual report of its activities, together with a financial statement, a proposed district budget for the next fiscal year, and a forecast presenting anticipated year-end results. The proposed budget shall include reasonably detailed estimates of:

(1) deficits and surpluses from prior fiscal years;

(2) anticipated expenditures for the administration of the district;

(3) anticipated expenditures for the operation and maintenance of any district communications plant;

(4) payments due on obligations, long-term contracts, leases, and financing agreements;

(5) payments due to any sinking funds for the retirement of district obligations;

(6) payments due to any capital or financing reserve funds;

(7) anticipated revenues from all sources; and

(8) such other estimates as the board deems necessary to accomplish its purpose.

(b) Coincident with a regular meeting thereof, the board shall hold a public hearing ~~not later than November 1~~ on or before November 15 of each year to receive comments from the legislative bodies of district members and hear all other interested persons regarding the proposed budget. Notice of such hearing shall be given to the legislative bodies of district members at least ~~30 days~~ 15 days prior to such hearing. The board shall give consideration to all comments received and make such changes to the proposed budget as it deems advisable.

(c) Annually, ~~not later than December 1~~ on or before December 15, the board shall adopt the budget and appropriate the sums it deems necessary to meet its obligations and operate and carry out the district's functions for the next ensuing fiscal year.

(d) Actions or resolutions of the board for the annual appropriations of any year shall not cease to be operative at the end of the fiscal year for which they were adopted. Appropriations made by the board for the various estimates of the budget shall be expended only for such estimates, but by majority vote of the board the budget may be amended from time to time to transfer funds between or among such estimates. Any balance left or unencumbered in any such budget estimate, or the amount of any deficit at the end of the fiscal year, shall be included in and paid out of the operating budget and appropriations in the next fiscal year. All such budget amendments shall be reported by the district treasurer to the legislative bodies of each district member within 14 days of the end of the fiscal year.

(e) Financial statements and audit results shall be delivered to the legislative bodies of each district member within 10 days of delivery to the board.

* * * E-911; Dispatch; Call-taking Services * * *

Sec. 15. E-911; DISPATCH; CALL-TAKING; 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; the Vermont Sheriffs' Association; and the Vermont Office of EMS and Injury Prevention, Department of Health.

(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. 15a. 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.

* * * Miscellaneous Provisions; Telecommunications Grant Programs * * *

Sec. 16. RECOVERY AND REPURPOSING OF TELECOMMUNICATIONS GRANT FUNDS

To the extent State funds are recovered by the Department of Public Service, as the successor in interest to the Vermont Telecommunications Authority (VTA), as the result of a grant recipient's failure to comply with the terms of a grant agreement entered into with the VTA, such public monies shall be deposited in the Connectivity Initiative.

Sec. 17. HIGH-COST PROGRAM; PUBLIC SERVICE BOARD; DEADLINE

The Public Service Board shall issue a procedures order for implementation of the High-Cost Program established under 30 V.S.A. § 7515 not later than September 1, 2016. If the Board fails to do so, the Board shall provide a report to the General Assembly and the Governor detailing reasons for failing to comply with this mandate.

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

(a) Notwithstanding 1 V.S.A. § 214, Secs. 1–4 shall take effect on January 1, 2016 and apply to decedents dying after December 31, 2015.

(b) This section and Secs. 5–17 shall take effect on passage.

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

An act relating to Vermont's estate tax and to telecommunications

House Proposal of Amendment

S. 183

An act relating to permanency for children in the child welfare system.

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. 14 V.S.A. § 2660 is added to read:

§ 2660. STATEMENT OF LEGISLATIVE INTENT

(a) The creation of a permanent guardianship for minors provides the opportunity for a child, whose circumstances make returning to the care of the parents not reasonably possible, to be placed in a stable and nurturing home for the duration of the child's minority. The creation of a permanent guardianship offers the additional benefit of permitting continued contact between a child and the child's parents.

(b) The Family Division of the Superior Court is not required to address and rule out each of the other potential disposition options once it has concluded that termination of parental rights is in a child's best interests.

Sec. 2. 14 V.S.A. § 2664 is amended to read:

§ 2664. CREATION OF PERMANENT GUARDIANSHIP

(a) The ~~family division of the superior court~~ Family Division of the Superior Court may establish a permanent guardianship at a permanency planning hearing or at any other hearing in which a permanent legal disposition of the child can be made, including a child protection proceeding pursuant to 33 V.S.A. § 5318, or a delinquency proceeding pursuant to 33 V.S.A. § 5232. The court shall also issue an order permitting or denying visitation, contact or information with the parent at the same time the order of permanent guardianship is issued. Before issuing an order for permanent guardianship, the court shall find by clear and convincing evidence all of the following:

(1) Neither parent is ~~capable or willing to provide adequate care to the child, requiring that parental rights and responsibilities be awarded to a permanent guardian~~ able to assume or resume parental duties within a reasonable time.

(2) ~~Neither returning the child to the parents nor adoption of the child is likely within a reasonable period of time.~~

~~(3) The child is at least 12 years old unless the proposed permanent guardian is:~~

~~(A) a relative; or~~

~~(B) the permanent guardian of one of the child's siblings.~~

~~(4)~~ The child has resided with the permanent guardian for ~~at least a year or the permanent guardian is a relative with whom the child has a relationship and with whom the child has resided for~~ at least six months.

~~(5)~~(3) A permanent guardianship is in the best interests of the child.

~~(6)~~(4) The proposed permanent guardian:

(A)(i) is emotionally, mentally, and physically suitable to become the permanent guardian; and

(ii) is financially suitable, with kinship guardianship assistance provided for in 33 V.S.A. § 4903 if applicable, to become the permanent guardian;

(B) has expressly committed to remain the permanent guardian for the duration of the child's minority; and

(C) has expressly demonstrated a clear understanding of the financial implications of becoming a permanent guardian including an understanding of any resulting loss of ~~state~~ State or federal benefits or other assistance.

(b) The parent voluntarily may ~~voluntarily~~ consent to the permanent guardianship, and shall demonstrate an understanding of the implications and obligations of the consent.

(c) After the ~~family division of the superior court~~ Family Division of the Superior Court issues a final order establishing permanent guardianship, the case shall be transferred to the appropriate ~~probate division of the superior court~~ Probate Division of the Superior Court in the district in which the permanent guardian resides. Jurisdiction shall continue to lie in the ~~probate division~~ Probate Division. Appeal of any decision by the ~~probate division of the superior court~~ Probate Division of the Superior Court shall be de novo to the ~~family division~~ Family Division.

(d) The Family Division of the Superior Court may name a successor permanent guardian in the initial permanent guardianship order. Prior to issuing an order naming a successor permanent guardian, the Court shall find by clear and convincing evidence that named successor permanent guardian meets the criteria in subdivision (a)(4) of this section.In the event that the permanent guardian dies or the guardianship is terminated by the Probate Division of the Superior Court, if a successor guardian is named in the initial order, custody of the child transfers to the successor guardian pursuant to subsection 2666(b) of this title.

Sec. 3. 14 V.S.A. § 2665 is amended to read:

§ 2665. REPORTS

The permanent guardian shall file a written report on the status of the child to the ~~probate division of the superior court~~ Probate Division of the Superior Court annually pursuant to subdivision 2629(b)(6) of this title and at any other time the court may order. ~~The report shall include the following:~~

~~(1) The location of the child.~~

~~(2) The child's health and educational status.~~

~~(3) A financial accounting of the income, expenditures and assets of the child if the permanent guardian is receiving any state or federal government benefits for the child.~~

~~(4) Any other information regarding the child that the probate division of the superior court may require.~~

Sec. 4. 14 V.S.A. § 2666(b) is amended to read:

(b) Where the permanent guardianship is terminated by the ~~probate division of the superior court~~ Probate Division of the Superior Court order or the death of the permanent guardian, the custody and guardianship of the child shall not revert to the parent, but to the ~~commissioner for children and families~~ Commissioner for Children and Families as if the child had been abandoned. If a successor permanent guardian has been named in the initial permanent guardianship order, custody shall transfer to the successor guardian, without reverting first to the Commissioner. The Probate Division of the Superior Court shall notify the Department when custody transfers to the Commissioner or the successor guardian. At any time during the first six months of the successor guardianship, the Probate Division may, upon its own motion and independent of its regular review process, hold a hearing to determine, by a preponderance of the evidence, whether the successor permanent guardian continues to meet the requirements under subdivision 2664(a)(4) of this title.

Sec. 5. 33 V.S.A. § 5124 is amended to read:

§ 5124. POSTADOPTION CONTACT AGREEMENTS

(a) Either or both parents and each intended adoptive parent may enter into a postadoption contact agreement regarding communication or contact between either or both parents and the child after the finalization of an adoption by the intended adoptive parent or parents who are parties to the agreement. Such an agreement may be entered into if:

(1) the child is in the custody of:

(A) the Department for Children and Families; or

(B) a nonparent pursuant to subdivision 5318(a)(2) or (a)(7), or subdivision 5232(b)(2) or (b)(3) of this title;

(2) an order terminating parental rights has not yet been entered; and

(3) either or both parents agree to a voluntary termination of parental rights, including an agreement in a case which began as an involuntary termination of parental rights.

* * *

(c) A postadoption contact agreement must be in writing and signed by each parent and each intended adoptive parent entering into the agreement. There may be separate agreements for each parent. The agreement shall specify:

* * *

(9) an acknowledgment that ~~once the adoption is finalized, the court shall presume that the adoptive parent's judgment concerning the best interests of the child is correct~~ the adoptive parent's judgment regarding the child is in the child's best interests;

* * *

Sec. 6. 33 V.S.A. § 5318 is amended to read:

§ 5318. DISPOSITION ORDER

(a) Custody. At disposition, the Court shall make such orders related to legal custody for a child who has been found to be in need of care and supervision as the Court determines are in the best interest of the child, including:

(1) An order continuing or returning legal custody to the custodial parent, guardian, or custodian. ~~Following disposition, the Court may issue a conditional custody order for a fixed period of time not to exceed two years. The Court shall schedule regular review hearings to determine whether the conditions continue to be necessary~~ The order may be subject to conditions and limitations.

(2) When the goal is reunification with a custodial parent, guardian, or custodian an order transferring temporary custody to a noncustodial parent, a relative, or a person with a significant relationship with the child. The order may provide for parent-child contact. ~~Following disposition, the Court may issue a conditional custody order for a fixed period of time not to exceed two years. The Court shall schedule regular review hearings to evaluate progress~~

~~toward reunification and determine whether the conditions and continuing jurisdiction of the Family Division of the Superior Court are necessary.~~

(3) An order transferring legal custody to a noncustodial parent and closing the juvenile proceeding. The order may provide for parent-child contact with the other parent. Any orders transferring legal custody to a noncustodial parent issued under this section shall not be confidential and shall be made a part of the record in any existing parentage or divorce proceeding involving the child. On the motion of a party or on the Court's own motion, the Court may order that a sealed copy of the disposition case plan be made part of the record in a divorce or parentage proceeding involving the child.

(4) An order transferring legal custody to the Commissioner.

(5) An order terminating all rights and responsibilities of a parent by transferring legal custody and all residual parental rights to the Commissioner without limitation as to adoption.

(6) An order of permanent guardianship pursuant to 14 V.S.A. § 2664.

(7) An order transferring legal custody to a relative or another person with a significant relationship with the child. The order may be subject to conditions and limitations and may provide for parent-child contact with one or both parents. The order shall be subject to ~~periodic review as determined by the Court~~ review pursuant to subdivision 5320a(b) of this title.

* * *

(f) Conditions. Conditions shall include protective supervision with the Department if such a condition is not in place under the terms of an existing temporary care or conditional custody order. Protective supervision shall remain in effect for the duration of the order to allow the Department to take reasonable steps to monitor compliance with the terms of the conditional custody order.

Sec. 7. 33 V.S.A. § 5320 is amended to read:

§ 5320. POSTDISPOSITION REVIEW HEARING

~~If the permanency goal of the disposition case plan is reunification with a parent, guardian, or custodian, the~~ The Court shall hold a review hearing within 60 days of the date of the disposition order for the purpose of monitoring progress under the disposition case plan and reviewing parent-child contact. Notice of the review shall be provided to all parties. A foster parent, preadoptive parent, ~~or~~ relative caregiver, or any custodian of the child shall be provided with notice of any post disposition review hearings and an opportunity to be heard at the hearings. Nothing in this section shall be construed as affording such person party status in the proceeding. This section

shall not apply to cases where full custody has been returned to one or both parents unconditionally at disposition, or cases where the court has created a permanent guardianship at disposition. The Department shall, and any other party or caregiver may prepare a written report to the Court regarding progress under the plan of services specified in the disposition case plan.

Sec. 8. 33 V.S.A. § 5232 is amended to read:

§ 5232. DISPOSITION ORDER

* * *

(b) In carrying out the purposes outlined in subsection (a) of this section, the Court may:

(1) Place the child on probation subject to the supervision of the Commissioner, upon such conditions as the Court may prescribe. The length of probation shall be as prescribed by the Court or until further order of the Court.

(2) Order custody of the child be given to the custodial parent, guardian, or custodian. For a fixed period of time following disposition, the Court may order that custody be subject to such conditions and limitations as the Court may deem necessary and sufficient to provide for the safety of the child and the community. Conditions may include protective supervision for up to ~~one year~~ six months following the disposition order unless further extended by court order. The Court shall ~~schedule regular~~ hold review hearings pursuant to section 5320 of this title to determine whether the conditions continue to be necessary.

(3) Transfer custody of the child to a noncustodial parent, relative, or person with a significant connection to the child. The Court may order that custody be subject to such conditions and limitations as the Court may deem necessary and sufficient to provide for the safety of the child and community, including protective supervision, for up to six months unless further extended by court order. The Court shall hold review hearings pursuant to section 5320 of this title to determine whether the conditions continue to be necessary.

(4) Transfer custody of the child to the Commissioner.

(5) Terminate parental rights and transfer custody and guardianship to the Department without limitation as to adoption.

(6) Issue an order of permanent guardianship pursuant to 14 V.S.A. § 2664.

(7) Refer a child directly to a youth-appropriate community-based provider that has been approved by the Department, which may include a

community justice center or a balanced and restorative justice program. Referral to a community-based provider pursuant to this subdivision shall not require the Court to place the child on probation. If the community-based provider does not accept the case or if the child fails to complete the program in a manner deemed satisfactory and timely by the provider, the child shall return to the Court for disposition.

* * *

Sec. 9. 33 V.S.A. § 5258 is amended to read:

§ 5258. POSTDISPOSITION REVIEW AND PERMANENCY REVIEW FOR DELINQUENTS IN CUSTODY

Whenever custody of a delinquent child is transferred to the Commissioner or the Court orders conditional custody of a child, the custody order of the Court shall be subject to a postdisposition review hearing pursuant to section 5320 of this title and permanency reviews pursuant to section 5321 of this title. At the permanency review, the Court shall review the permanency plan and determine whether the plan advances the permanency goal recommended by the Department. The Court may accept or reject the plan, but may not designate a particular placement for a child in the Department's legal custody. Any conditional custody order shall be subject to review pursuant to section 5258a of this title.

Sec. 10. 33 V.S.A. § 5258a is added to read:

§ 5258a. DURATION OF CONDITIONAL CUSTODY ORDERS POSTDISPOSITION

(a) Conditional custody orders to parents. Whenever the court issues a conditional custody order transferring custody to a parent either at or following disposition, the presumptive duration of the order shall be no more than six months from the date of the disposition order or the conditional custody order, whichever occurs later, unless otherwise extended by the court after hearing. At least 14 days prior to the termination of the order, any party may file a request to extend the order pursuant to subsection 5113(b) of this title. Upon such motion, the Court may extend the order for an additional period of time not to exceed six months. Prior to vacating the conditional custody order, the court may schedule a hearing on its own motion to review the case prior to discharging the conditions. If a motion to extend is not filed, the court shall issue an order vacating the conditions and transferring full custody to the parent without conditions.

(b) Custody orders to nonparents.

(1) When the court at disposition issues an order continuing or transferring legal custody with a nonparent pursuant to subdivision 5232(b)(3) of this title, the court shall set the matter for a hearing six months from the date of disposition or custody order whichever occurs later. At the hearing, the court shall determine whether it is in the best interests of the child to:

(A) transfer either full or conditional custody of the child to a parent;

(B) establish a permanent guardianship pursuant to 14 V.S.A. § 2664 with the nonparent who has had custody of the child as the guardian; or

(C) terminate residual parental rights and release the child for adoption.

(2) If, after hearing, the court determines that reasonable progress has been made toward reunification and that reunification is in the best interests of the child but will require additional time, the court may extend the current order for a period not to exceed six months and set the matter for further hearing.

Sec. 11. 33 V.S.A. § 5320a is added to read:

§ 5320a. DURATION OF CONDITIONAL CUSTODY ORDERS POSTDISPOSITION

(a) Conditional custody orders to parents. Whenever the Court issues a conditional custody order transferring custody to a parent either at or following disposition, the presumptive duration of the order shall be no more than six months from the date of the disposition order or the conditional custody order, whichever occurs later, unless otherwise extended by the court after hearing. At least 14 days prior to the termination of the order, any party may file a request to extend the order pursuant to subsection 5113(b) of this title. Upon such motion, the Court may extend the order for an additional period of time not to exceed six months. Prior to vacating the conditional custody order, the Court may schedule a hearing on its own motion to review the case prior to discharging the conditions. If a motion to extend is not filed, the court shall issue an order vacating the conditions and transferring full custody to the parent without conditions.

(b)(1) Custody orders to nonparents. When the court at disposition issues an order continuing or transferring legal custody with a nonparent pursuant to subdivision 5318(a)(2) or (a)(7) of this title, the court shall set the matter for a hearing six months from the date of disposition or custody order, whichever occurs later. At the hearing, the court shall determine whether it is in the best interests of the child to:

(A) transfer either full or conditional custody of the child to a parent;

(B) establish a permanent guardianship pursuant to 14 V.S.A. § 2664 with the nonparent who has had custody of the child as the guardian; or

(C) terminate residual parental rights and release the child for adoption.

(2) If, after hearing, the court determines that reasonable progress has been made toward reunification and that reunification is in the best interests of the child but will require additional time, the court may extend the current order for a period not to exceed six months and set the matter for further hearing.

Sec. 12. 33 V.S.A. § 5125 is added to read:

§ 5125. REINSTATEMENT OF PARENTAL RIGHTS

(a) Petition for reinstatement.

(1) A petition for reinstatement of parental rights may be filed by the Department for Children and Families on behalf of a child in the custody of the Department under the following conditions:

(A) the child's adoption has been dissolved; or

(B) the child has not been adopted after at least three years from the date of the court order terminating parental rights.

(2) The child, if 14 years of age or older, may also file a petition to reinstate parental rights if the adoption has been dissolved, or if parental rights have been terminated and the child has not been adopted after three years from the date of the court order terminating parental rights. This section shall not apply to children who have been placed under permanent guardianship pursuant to 14 V.S.A. § 2664.

(b) Permanency plan. The Department shall file an updated permanency plan with the petition for reinstatement. The updated plan shall address the material change in circumstances since the termination of parental rights, the Department's efforts to achieve permanency, the reasons for the parent's desire to have rights reinstated, any statements by the child expressing the child's opinions about reinstatement, and the parent's present ability and willingness to resume or assume parental duties.

(c) Hearing.

(1) The court shall hold a hearing to consider whether reinstatement is in the child's best interest. The court shall conditionally grant the petition if it finds by clear and convincing evidence that:

(A) the parent is presently willing and has the ability to provide for the child's present and future safety, care, protection, education, and healthy mental, physical, and social development;

(B) reinstatement is the child's express preference;

(C) if the child is 14 years of age or older and has filed the petition, the child is of sufficient maturity to understand the nature of this decision;

(D) the child has not been adopted, or the adoption has been dissolved;

(E) the child is not likely to be adopted; and

(F) reinstatement of parental rights is in the best interests of the child.

(2) Upon a finding by clear and convincing evidence that all conditions set forth in subdivision (1) of this subsection exist and that reinstatement of parental rights is in the child's best interest, the court shall issue a conditional custody order for up to six months transferring temporary legal custody of the child to the parent, subject to conditions as the court may deem necessary and sufficient to ensure the child's safety and well-being. The court may order the Department to provide transition services to the family as appropriate. If during this time period the child is removed from the parent's temporary conditional custody due to allegations of abuse or neglect, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(d) Final order. After the child is placed with the parent for up to six months pursuant to subsection (c) of this section, the court shall hold a hearing to determine if the placement has been successful. The court shall enter a final order of reinstatement of parental rights upon a finding by a preponderance of the evidence that placement continues to be in the child's best interest.

(e) Effect of reinstatement. Reinstatement of parental rights does not vacate or otherwise affect the validity of the original order terminating parental rights. Reinstatement restores a parent's legal rights to his or her child, including all rights, powers, privileges, immunities, duties, and obligations that were terminated by the court in the termination of parental rights order. Such reinstatement shall be a recognition that the parent's and child's situations have changed since the time of the termination of parental rights, and reunification is appropriate. An order reinstating the legal parent and child relationship as to one parent of the child has no effect on the legal rights of any other parent whose rights to the child have been terminated by the court; or the legal sibling relationship between the child and any other children of the parent. A parent whose rights are reinstated pursuant to this section is not liable for child

support owed to the Department during the period from termination of parental rights to reinstatement.

Sec. 13. JUDICIARY COMMISSION ON CHILD ABUSE AND NEGLECT

(a) The General Assembly recognizes that the increasing burden of substance abuse in Vermont has deteriorated families, resulting in a tremendous increase in children in need of supervision (CHINS) and termination of parental rights (TPR) filings in courts throughout the State. The General Assembly also recognizes that the allocation of resources in judicial proceedings devoted to CHINS and TPR cases, including attorney time, Department for Children and Families staff time, judge time, court staff time, and operating expenses are controlled to a great degree by statute and do not always allow flexibility to meet Vermont's constitutional responsibilities to children and families in an efficient and effective manner. The General Assembly also recognizes that technology and other resources provide opportunities to increase efficiency in processing cases, while improving timely access to judicial proceedings for families and children in need. The General Assembly also recognizes that an effort to evaluate reform measures with input from all interested parties involved in the processing of these cases will improve access to justice.

(b) In order to develop specific proposals for consideration by the General Assembly, the General Assembly requests the Supreme Court, subject to the availability of funding to provide dedicated staff and research support, to appoint and convene a Commission on Judicial Operations in CHINS and TPR cases to consist of members representing Judicial, Legislative, and Executive Branches of government and persons representing the citizens of Vermont in a number to be determined by the Court. The Chief Justice shall appoint the Chair of the Commission, who shall be independent of the Vermont Judicial System. The Commission shall expire on June 30, 2017. The Commission shall from time to time make recommendations by report to the Senate and House Committees on Judiciary and on Appropriations, the House Committee on Human Services, and the Senate Committee on Health and Welfare. On or before January 15, 2017, the Commission shall submit an interim report to those committees with specific proposals regarding subdivisions (1)–(6) of this subsection with accompanying draft legislation to implement those proposals and a final report on or before May 1, 2017, which shall address all the following areas:

(1) achieving adequate dedicated court staff, attorney, Department, guardian ad litem, and judge resources;

(2) business reprocessing of child protection and parental rights procedures, laws and rules to minimize extra operational steps involved in processing CHINS and TPR cases;

(3) the use of technology such as video to increase litigant access and reduce unnecessary expense to litigants, including transportation, lost work time, lost school time, and any other measure suitable in the judgment of the Commission, while improving access and maintaining quality adjudication;

(4) alternative hearing space recommendations, including Saturday and weekday evening hearings and mobile courtrooms;

(5) flexibility in the use of resources to respond to the elastic, changeable demands for judicial and legal services in CHINS cases; and

(6) any other ideas for the efficient and effective delivery of judicial services in CHINS cases.

Sec. 14. EFFECTIVE DATES

This act shall take effect on September 1, 2016, except for this section and Sec. 5 (postadoption contact agreements), which shall take effect on July 1, 2016.

NEW BUSINESS

House Proposal of Amendment to Senate Proposal of Amendment

H. 130

An act relating to the Agency of Public Safety

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

First: By striking out in their entirety Secs. 7 (24 V.S.A. § 1943) through 11 (Department of Corrections; animal care pilot program) and their accompanying reader assistance heading and inserting in lieu thereof the following:

Secs. 7–11. [Deleted.]

Second: By striking out Sec. 14 (effective dates) in its entirety and inserting in lieu thereof the following:

Sec. 14. EFFECTIVE DATES

This act shall take effect on passage, except Sec. 6 (13 V.S.A. § 352a) 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, and training safety

NOTICE CALENDAR

Second Reading

Favorable

H. 519.

An act relating to approval of the adoption and codification of the charter of the Town of Brandon.

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

(Committee vote: 5-0-0)

(No House amendments)

Reported favorably by Senator Mullin for the Committee on Finance.

(Committee vote: 5-0-2)

H. 871.

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

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

(Committee vote: 5-0-0)

(For House amendments, see House Journal of April 29, 2016, page 1328)

Reported favorably by Senator Degree for the Committee on Finance.

(Committee vote: 5-0-2)

Favorable with Proposal of Amendment

H. 577.

An act relating to voter approval of electricity purchases by municipalities and electric cooperatives.

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

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

* * * Municipal and Cooperative Electric Utilities; Energy Purchases; Voter Approval * * *

Sec. 1. 30 V.S.A. § 2924 is amended to read:

§ 2924. APPROVAL BY VOTERS OF MUNICIPALITY

(a) With respect to matters not subject to section 248 of this title, ~~before~~ a municipal department established under this chapter or local charter ~~may~~ shall obtain the approval of the voters of the municipality before in any way:

(1) ~~purchase~~ purchasing electric capacity or energy from outside the ~~state, for a period exceeding five years, that represents more than one percent of its historic peak demand, or~~ State:

(A) for a period exceeding five years, that represents more than three percent of its historic peak demand, unless the purchase is from a plant that produces electricity from renewable energy; or

(B) for a period exceeding ten years, that represents more than ten percent of its historic peak demand, if the purchase is from a plant that produces electricity from renewable energy;

(2) ~~invest~~ investing in an electric generation or transmission facility located outside this ~~state~~ State; or

(3) ~~begin~~ beginning site preparation for or construction of an electric generation facility within the ~~state~~ State, or an electric transmission facility within the ~~state which~~ State that is designed for immediate or eventual operation at any voltage or ~~exercise~~ exercising the right of eminent domain in connection with site preparation for or construction of any such transmission or generation facility, except for the replacement of existing facilities with equivalent facilities in the usual course of business~~,~~.

(b) ~~that~~ A municipal department shall obtain the approval required by subsection (a) of this section by a vote of a majority of the voters of the

municipality voting upon the question at a duly warned annual or special meeting to be held for that purpose. Prior to the meeting, ~~a~~ the municipal department may provide to the voters an assessment of any risks and benefits of the proposed action.

(c) In this section, "plant" and "renewable energy" have the same meaning as in section 8002 of this title.

Sec. 2. 30 V.S.A. § 3044 is amended to read:

§ 3044. APPROVAL BY MEMBERS OF COOPERATIVE

(a) With respect to matters not subject to section 248 of this title, ~~before~~ a cooperative established under this chapter ~~may~~ shall obtain the approval of the voters of the cooperative before in any way:

(1) ~~purchase~~ purchasing electric capacity or energy from outside the ~~state, for a period exceeding five years, that represents more than one percent of its historic peak demand, or~~ State:

(A) for a period exceeding five years, that represents more than three percent of its historic peak demand, unless the purchase is from a plant that produces electricity from renewable energy; or

(B) for a period exceeding ten years, that represents more than ten percent of its historic peak demand, if the purchase is from a plant that produces electricity from renewable energy;

(2) ~~invest~~ investing in an electric generation or transmission facility located outside this ~~state~~ State; or

(3) ~~begin~~ beginning site preparation for or construction of an electric generation facility within the ~~state~~ State, or an electric transmission facility within the ~~state which~~ State that is designed for immediate or eventual operation at any voltage or ~~exercise~~ exercising the right of eminent domain in connection with site preparation for or construction of any such transmission or generation facility, except for the replacement of existing facilities with equivalent facilities in the usual course of business,.

(b) ~~that~~ A cooperative shall obtain the approval required by subsection (a) of this section by a vote of a majority of the voters of the cooperative voting upon the question at a duly warned annual or special meeting to be held for that purpose. Prior to the meeting, ~~a~~ the cooperative may provide to the voters an assessment of any risks and benefits of the proposed action.

(c) In this section, "plant" and "renewable energy" have the same meaning as in section 8002 of this title.

Sec. 3. VERMONT HYDROELECTRIC POWER ACQUISITION WORKING GROUP

(a) Creation. There is created the Vermont Hydroelectric Power Acquisition Working Group to prepare due diligence and feasibility studies regarding the purchase of hydroelectric dams and related assets currently owned by TransCanada Hydro on the Connecticut and Deerfield Rivers (the "dam facilities").

(b) Membership. The Working Group shall be composed of the following seven members:

(1) the Secretary of Administration or designee who shall serve as chair;

(2) the State Treasurer or designee;

(3) the Commissioner of Public Service or designee;

(4) two persons chosen by the Governor, at least one of whom shall be an employee of a regional planning commission serving communities that host at least two hydroelectric facilities owned by TransCanada Hydro;

(5) one person chosen by the Speaker of the House; and

(6) one person chosen by the Senate Committee on Committees.

(c) Powers and duties. The Working Group shall:

(1) Review and study the principal policy, economic, environmental, and engineering issues involved in a purchase of the dam facilities, including:

(A) the administrative and structural options for the ownership of the dam facilities and the sale and distribution of their power output, including ownership through the creation of a limited purpose State public power authority, the Vermont Public Power Supply Authority, by one or more Vermont utilities, or by a public-private partnership; and

(B) the alternatives for disposition of the power output of the dam facilities, including wholesale and retail sales within and outside the State and use of the power within a portfolio to support advanced and renewable energy technologies, and the impacts of these alternatives on the credit-worthiness of the State and the ability of Vermont utilities to access investment capital on reasonable commercial terms.

(2) Prepare recommendations on the purchase of the dam facilities.

(d) Assistance. The Working Group may consult with other State, municipal, or private entities, including representatives of the State Treasurer; the Vermont Agency of Natural Resources; the Vermont Municipal Bond Bank; representatives of existing municipal, cooperative, and investor-owned

utilities; the Vermont Department of Public Service; and, where appropriate, the Public Service Board. Reasonable administrative support for the Working Group shall be provided upon request by the Department of Public Service and the Office of Legislative Council. The Working Group may retain professional assistance to undertake the duties required herein.

(e) Reimbursement. Legislative members of the Working Group shall receive per diem and expenses pursuant to 2 V.S.A. § 406, and members of the Working Group who are not State employees may be compensated by their appointing authorities.

(f) Public records. Commercial and financial information of a proprietary nature produced or acquired by the Working Group shall be exempt from public inspection and copying under the Public Records Act if public release of the information could jeopardize the position of the State of Vermont and its agents in negotiations or in the purchase of the facilities on advantageous terms.

(g) Meetings. The members of the Working Group shall be appointed not later than 13 days following passage of this act and the Secretary of Administration shall convene the Working Group not later than 15 days after the effective date of this act.

(h) Appropriation. The Secretary of Administration is authorized to expend $75,000.00 from general funds appropriated to the Executive Branch in the FY 2017 Appropriations Act for the study required in this section. If the Secretary determines that additional expenditures are necessary to preserve options on behalf of the State, the Working Group is authorized to approve the Secretary's use of an additional $175,000.00 from general funds appropriated to the Executive Branch in the FY 2017 Appropriations Act. The Secretary shall make an offsetting reduction or funds transfer for any amount expended from the funds appropriated to the Executive Branch in the FY 2017 Appropriations Act. Any additional funding shall require approval from the Emergency Board.

(i) Report. On or before August 1, 2016, the Working Group shall submit a report on the study and recommendation described in subsection (c) of this section to the Senate Committees on Finance and on Natural Resources and Energy, and the House Committees on Commerce and Economic Development and on Natural Resources and Energy.

(j) Bid. If the Working Group's report described in subsection (i) of this section includes a recommendation to purchase the dam facilities, then the Working Group is authorized to submit a bid to purchase the dam facilities; provided, however, that the Working Group shall obtain approval of the

General Assembly to proceed with the bid within 14 days of receipt of notification that the bid has been accepted. If the bid is accepted when the General Assembly is not in session, then the Working Group shall request that the Governor convene a special session for the purpose of approving the bid.

Sec. 4. 30 V.S.A. chapter 90 is added to read:

CHAPTER 90. VERMONT HYDROELECTRIC POWER AUTHORITY

Subchapter 1. General Provisions

§ 8040. FINDINGS, PURPOSE, AND GOALS

(a) The General Assembly of the State of Vermont finds that potential exists to purchase an interest in hydroelectric power stations along the Connecticut and Deerfield Rivers located in Vermont, New Hampshire, and Massachusetts.

(b) Therefore, it is the purpose of this chapter to create an entity with the authority to finance, purchase, own, operate, or manage any interest in the hydroelectric power facilities along the Connecticut and Deerfield Rivers located in Vermont, New Hampshire and Massachusetts, and to sell the electric energy under the control of the Authority from those facilities at wholesale to authorized wholesale purchasers. The purchase and operation of an interest shall be pursued with the following goals:

(1) to promote the general good of the State;

(2) to stimulate the development of the Vermont economy;

(3) to increase the degree to which Vermont's energy needs are met through environmentally-sound sustainable and renewable in-state energy sources;

(4) to lessen electricity price risk and volatility for Vermont ratepayers and to increase system reliability;

(5) to not compete with Vermont utilities;

(6) to ensure that the credit rating of the State will not be adversely affected and Vermont taxpayers will not be liable should the purchase of the facilities fail because of the failure to produce sufficient revenue to service the debt, the failure of a partner, or for any other reason; and

(7) to cause the facilities to be operated in an environmentally sound manner consistent with federal licenses and purposes.

§ 8041. DEFINITIONS

As used in this chapter:

(1) "Authority" means the Vermont Hydroelectric Power Authority established by this chapter.

(2) "Facilities" means the hydroelectric power stations and related assets along the Connecticut and Deerfield Rivers located in Vermont, New Hampshire, and Massachusetts in which the Authority has acquired an equity interest.

§ 8042. ESTABLISHMENT

There is created a body corporate and politic to be known as the Vermont Hydroelectric Power Authority. The Authority is an instrumentality of the State exercising public and essential governmental functions, and the exercise by the Authority of the powers conferred upon it by this chapter constitutes the performance of essential governmental functions.

§ 8043. BOARD OF DIRECTORS

(a) Directors. The powers of the Authority shall be exercised by seven directors appointed as follows:

(1) Five directors shall be appointed by the Governor, at least one of whom shall represent retail customers. No director appointed by the Governor, while serving as a director, shall be an employee, board member, or director, or have a substantial ownership interest in an electric company regulated by the Public Service Board or the Department of Public Service under this title;

(2) The State Treasurer, who shall serve ex officio; and

(3) One director shall be a representative of the Department of Public Service, appointed by the Commissioner, who shall serve at the pleasure of the Commissioner.

(b) Terms and vacancies. The directors appointed by the Governor shall be appointed for terms of five years and until their successors are appointed and confirmed, except that the first directors shall be appointed in the following manner: one for a term of two years, two for a term of three years, and two for a term of five years. The Governor for cause may remove a director appointed by a Governor. The Governor may fill any vacancy occurring among the directors appointed by a Governor for the balance of the unexpired term. A director may be reappointed.

(c) Officers. The Authority shall elect a chair, a vice chair, and a treasurer from among its directors.

(d) Quorum. A quorum shall consist of four directors. No action of the Authority shall be considered valid unless the action is supported by a majority

vote of the directors present and voting and then only if at least four directors vote in favor of the action.

(e) Compensation. Directors shall be compensated for necessary expenses incurred in the performance of their duties in the manner provided by 32 V.S.A. § 1010(b).

(f) Bylaws. The Authority's board of directors shall adopt bylaws or other rules and regulations for the management of the affairs of the Authority and carrying out the purposes of this chapter.

(g) Conflicts. Despite any law or charter provision to the contrary, a director or officer of the Authority who is also an officer, employee, or member of a legislative body of a municipality or other public body or of the State shall not thereby be precluded from voting or acting on behalf of the Authority on a matter involving the municipality or public body or the State.

§ 8044. MANAGER

(a) Manager. The Authority shall employ and compensate a manager who shall serve under a contract for a specific term or at the pleasure of the Authority. The Authority, with the Governor's approval, shall fix the manager's compensation. The manager shall be the chief executive officer of the Authority and shall administer, manage, and direct the affairs and business of the Authority, subject to the policies, control, and direction of the directors.

(b) Interim manager. The Governor or the Governor's designee shall have the power to appoint an interim manager upon enactment of this chapter, who shall serve at the Governor's pleasure, under the Governor's direction, and for compensation established by the Governor. The interim manager, with the approval of the Governor or the Governor's designee, shall have full authority to take all actions authorized under this chapter to protect and advance the interests of the State of Vermont until such time as a manager employed pursuant to subsection (a) of this section has assumed office.

§ 8045. TERMINATION

(a) The Authority shall continue so long as it shall have any obligations or indebtedness outstanding and until its existence is terminated by law. Upon termination of the Authority, title to all of the property owned by the Authority shall vest in the State. The State reserves the right to change or terminate the Authority and any structure, organization, program, or activity of the Authority, subject to constitutional limitations.

(b) The net earnings of the Authority, beyond those necessary for retirement of its notes, bonds, or other obligations or indebtedness or to

implement the public purposes and programs authorized in this chapter, shall not inure to the benefit of any person other than the State.

Subchapter 2. Powers and Prohibitions

§ 8046. GENERAL POWERS

The Authority has the following powers as are necessary to carry out the purposes of this chapter:

(1) To borrow money and to issue negotiable bonds, notes, and commercial paper, and give other evidences of indebtedness or obligations, and to provide for and secure the payment thereof, and to provide for the rights of the holders thereof, to purchase, hold, and dispose of any of its bonds, notes, or commercial paper, and to resell or retire any such evidences of indebtedness or obligations prior to the stated maturity thereof.

(2) To enter into all contracts, leases, agreements, and arrangements, including such agreements with other persons as the Authority deems necessary or appropriate in connection with the issuance, sale, and resale of evidences of indebtedness or obligations, including trust indentures, bond purchase agreements, disclosure agreements, remarketing agreements, agreements providing liquidity or credit facilities, bond insurance, or other credit enhancements in connection with such evidences of indebtedness or obligations.

(3) To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of property necessary to carry out the purposes of this chapter, real or personal, improved or unimproved, tangible or intangible, including an interest in land of less than fee.

(4) To pledge or assign any money, fees, charges, or other revenues of the Authority and any proceeds derived by the Authority from the sale of property or from insurance or condemnation awards.

(5) To employ personnel who, in the discretion of the Authority, may be in the classified system under 3 V.S.A. chapter 13, and to employ or contract with agents, consultants, legal advisors, and other persons and entities as may be necessary or desirable for its purposes, upon such terms as the Authority may determine.

(6) To apply and contract for and to expend assistance from the United States or other sources, whatever the form.

(7) To administer its own funds and to deposit funds which are not needed currently to meet the obligations of the Authority.

(8) To invest funds which are not needed currently to meet the obligations of the Authority, pursuant to an investment policy approved by the State Treasurer.

(9) To apply to the appropriate agencies of the State, other states, the United States, and to any other proper agency for permits, licenses, certificates, or approvals which may be necessary, and to construct, maintain, and operate the facilities in accordance with these licenses, permits, certificates, or approvals;

(10) To contract with respect to the purchase, sale, delivery, exchange, interchange, wheeling, pooling, transmission, or use of project electric power and energy and to otherwise participate in intrastate, interstate, and international wholesale arrangements with respect to those matters.

(11) To contract for the use of transmission and distribution facilities owned by others solely for the purpose of engaging in wholesale transactions.

(12) Alone or jointly, to plan, finance, acquire, construct, improve, purchase, operate, maintain, use, share costs of, own, lease, sell, dispose of, or otherwise participate in the facilities or portions of the facilities, the product or service from them, securities or obligations issued or incurred in connection with the financing of them, or research and development relating to them, within or outside the state.

(13) To sell electric power at wholesale within or outside the State.

(14) To undertake a joint financing of the facilities.

(15) To accept and expend with respect to a facility, project, or program any gifts or grants received from any source in accordance with the terms of the gifts or grants.

(16) To exercise all powers necessary or incidental to affect any or all of the purposes for which the Authority is created.

§ 8047. PROHIBITIONS

The Authority shall take no action to cause, nor shall any provision of this chapter be construed to impose, any obligation upon the State as a result of the insolvency of a partner.

§ 8048. OBLIGATIONS NOT OBLIGATIONS OF THE STATE

(a) The Authority shall have the benefit of sovereign immunity to the same extent as the State of Vermont.

(b) Notwithstanding subsection (a) of this section:

(1) obligations of the Authority under a contract authorized by this chapter shall not be deemed to constitute an obligation, indebtedness, or a lending of credit of the State; and

(2) no financing or security document, bond, or other instrument issued or entered into in the name and on behalf of the Authority under this chapter shall in any way obligate the State to raise any money by taxation or use other funds for any purpose to pay any debt or meet any financial obligation to any person at any time in relation to a facility, project, or program financed in whole or in part by the issue of the Authority's bonds under this chapter.

§ 8049. RECORDS; ANNUAL REPORT; AUDIT

(a) The Authority shall keep an accurate account of all its activities and of all its receipts and expenditures.

(b) Each year, prior to February 1, the Authority shall submit a report of its activities for the preceding fiscal year to the Governor and to the General Assembly. The report shall set forth a complete operating and financial statement covering its operations during the year. The Authority shall cause an audit of its books and accounts to be made at least once in each year by a certified public accountant. The cost of the audit shall be considered an expense of the Authority, and a copy of the audit shall be filed with the State Treasurer.

Subchapter 3. Form and Nature of Indebtedness; Approval

§ 8050. BONDS; INDEBTEDNESS

(a) Issue. The Authority may issue bonds, or any other forms of indebtedness, to pay the costs of purchasing the facilities, or property related to such facilities, to pay the costs of repairs, replacements, or expansions of the facilities, to pay capitalized interest and costs of issuance, which have been approved by the Authority, or to refund bonds previously issued.

(b) Form of bonds. Bonds issued under this section shall bear the manual or facsimile signature of the manager of the Authority and the manual or facsimile signature of the Chair or Vice Chair of the Authority. Bonds shall be sold by the signing officers at public or private sale, and the proceeds thereof shall be paid to the trustee under the security document that secures the bonds. Such bonds shall be in such form and denominations, and with such terms and provisions, including the maturity date or dates, redemption provisions, and other provisions necessary or desirable. Such bonds shall be either taxable or tax-exempt and shall be noninterest bearing, or bear interest at such rate or rates, which may be fixed or variable, as may be sufficient or necessary to effect the issuance and sale or resale thereof. If any swaps or similar derivative

instrument is used in the issuance of such bonds, the Authority shall employ a swap adviser to develop an interest rate management plan.

(c) Trustee. A state or national chartered bank, Vermont bank, or Vermont trust company may serve as trustee for the benefit of debtholders under a security document, and the trustee may at any time own all or any part of the indebtedness issued under that security document, unless otherwise provided therein. All monies received or held by the Authority or by a trustee pursuant to a financing or security document shall be deemed to be trust funds and shall be held and applied solely in accordance with the applicable document.

(d) Enforcement. Except as provided in any financing or security document entered into or any indebtedness issued under this chapter, each of the parties to the financing or security document or any debtholder may enforce the obligation of any other person to the party or debtholder under the bond or instrument by appropriate legal proceedings.

(e) Legal investments. Any indebtedness issued under this chapter shall be legal investments for all persons without limit as to the amount held, regardless of whether they are acting for their own account or in a fiduciary capacity. Such bonds shall likewise be legal investments for all public officials authorized to invest public funds.

§ 8051. BONDS; INDEBTEDNESS; APPROVAL

The Authority shall issue indebtedness under this chapter pursuant to guidelines developed by the State Treasurer. The Governor and the State Treasurer shall provide written approval prior to any issuance.

Subchapter 4. Funds and Accounts

§ 8052. FUNDS; ACCOUNTS.

The Authority shall establish funds and accounts, including reserve funds, necessary to meet the Authority's operating and capital needs, and the provisions of any security documents. Any debt service reserves shall be structured to be consistent with applicable guidelines established by the Internal Revenue Service.

Sec. 5. VERMONT HYDROELECTRIC POWER AUTHORITY; TRANSITIONAL PROVISION; APPOINTMENT; TERMINATION

(a) The Governor shall appoint the directors of the Authority within 14 days following the request of the Vermont Hydroelectric Power Acquisition Working Group.

(b) Sec. 4 of this act, creating 30 V.S.A. chapter 90, shall terminate on January 15, 2017 if at that time the State has not purchased or commenced

negotiations to purchase, the dam facilities, as determined by the Secretary of Administration.

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1 and 2 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 Starr for the Committee on Appropriations.

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

In Sec. 3, Vermont Hydroelectric Power Acquisition Working Group, in subsection (h), by inserting, after the last sentence, the following: If any funds are expended pursuant to this section, the Secretary shall submit a report to the Joint Fiscal Committee. The report shall include the amount expended and the underlying source of funds.

(Committee vote: 6-0-1)

Substitute Report of the Committee on Finance.

Senator Lyons moves that the Report of the Committee on Finance be substituted as follows:

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

* * * Municipal and Cooperative Electric Utilities; Energy Purchases; Voter Approval * * *

Sec. 1. 30 V.S.A. § 2924 is amended to read:

§ 2924. APPROVAL BY VOTERS OF MUNICIPALITY

(a) With respect to matters not subject to section 248 of this title, ~~before~~ a municipal department established under this chapter or local charter ~~may~~ shall obtain the approval of the voters of the municipality before in any way:

(1) ~~purchase~~ purchasing electric capacity or energy from outside the ~~state, for a period exceeding five years, that represents more than one percent of its historic peak demand, or~~ State:

(A) for a period exceeding five years, that represents more than three percent of its historic peak demand, unless the purchase is from a plant that produces electricity from renewable energy; or

(B) for a period exceeding ten years, that represents more than ten percent of its historic peak demand, if the purchase is from a plant that produces electricity from renewable energy;

(2) ~~invest~~ investing in an electric generation or transmission facility located outside this ~~state~~ State; or

(3) ~~begin~~ beginning site preparation for or construction of an electric generation facility within the ~~state~~ State, or an electric transmission facility within the ~~state which~~ State that is designed for immediate or eventual operation at any voltage or ~~exercise~~ exercising the right of eminent domain in connection with site preparation for or construction of any such transmission or generation facility, except for the replacement of existing facilities with equivalent facilities in the usual course of business~~;~~.

(b) ~~that~~ A municipal department shall obtain the approval required by subsection (a) of this section by a vote of a majority of the voters of the municipality voting upon the question at a duly warned annual or special meeting to be held for that purpose. Prior to the meeting, ~~a~~ the municipal department may provide to the voters an assessment of any risks and benefits of the proposed action.

(c) In this section, "plant" and "renewable energy" have the same meaning as in section 8002 of this title.

Sec. 2. 30 V.S.A. § 3044 is amended to read:

§ 3044. APPROVAL BY MEMBERS OF COOPERATIVE

(a) With respect to matters not subject to section 248 of this title, ~~before~~ a cooperative established under this chapter ~~may~~ shall obtain the approval of the voters of the cooperative before in any way:

(1) ~~purchase~~ purchasing electric capacity or energy from outside the ~~state, for a period exceeding five years, that represents more than one percent of its historic peak demand, or~~ State:

(A) for a period exceeding five years, that represents more than three percent of its historic peak demand, unless the purchase is from a plant that produces electricity from renewable energy; or

(B) for a period exceeding ten years, that represents more than ten percent of its historic peak demand, if the purchase is from a plant that produces electricity from renewable energy;

(2) ~~invest~~ investing in an electric generation or transmission facility located outside this ~~state~~ State; or

(3) ~~begin~~ beginning site preparation for or construction of an electric generation facility within the ~~state~~ State, or an electric transmission facility within the ~~state which~~ State that is designed for immediate or eventual operation at any voltage or ~~exercise~~ exercising the right of eminent domain in connection with site preparation for or construction of any such transmission or generation facility, except for the replacement of existing facilities with equivalent facilities in the usual course of business,.

(b) ~~that~~ A cooperative shall obtain the approval required by subsection (a) of this section by a vote of a majority of the voters of the cooperative voting upon the question at a duly warned annual or special meeting to be held for that purpose. Prior to the meeting, ~~a~~ the cooperative may provide to the voters an assessment of any risks and benefits of the proposed action.

(c) In this section, "plant" and "renewable energy" have the same meaning as in section 8002 of this title.

* * * Vermont Hydroelectric Power Acquisition; Working Group * * *

Sec. 3. VERMONT HYDROELECTRIC POWER ACQUISITION WORKING GROUP

(a) Creation. There is created the Vermont Hydroelectric Power Acquisition Working Group to prepare due diligence and feasibility studies regarding the purchase of hydroelectric dams and related assets currently owned by TransCanada Hydro on the Connecticut and Deerfield Rivers (the "dam facilities").

(b) Membership. The Working Group shall be composed of the following seven members:

(1) the Secretary of Administration or designee who shall serve as chair;

(2) the State Treasurer or designee;

(3) the Commissioner of Public Service or designee;

(4) two persons chosen by the Governor, at least one of whom shall be an employee of a regional planning commission serving communities that host at least two hydroelectric facilities owned by TransCanada Hydro;

(5) one person chosen by the Speaker of the House; and

(6) one person chosen by the Senate Committee on Committees.

(c) Powers and duties. The Working Group shall:

(1) Review and study the principal policy, economic, environmental, and engineering issues involved in a purchase of the dam facilities, including:

(A) the administrative and structural options for the ownership of the dam facilities and the sale and distribution of their power output, including ownership through the creation of a limited purpose State public power authority, the Vermont Public Power Supply Authority, by one or more Vermont utilities, or by a public-private partnership; and

(B) the alternatives for disposition of the power output of the dam facilities, including wholesale and retail sales within and outside the State and use of the power within a portfolio to support advanced and renewable energy technologies, and the impacts of these alternatives on the credit-worthiness of the State and the ability of Vermont utilities to access investment capital on reasonable commercial terms.

(2) Prepare recommendations on the purchase of the dam facilities.

(d) Assistance. The Working Group may consult with other State, municipal, or private entities, including representatives of the State Treasurer; the Vermont Agency of Natural Resources; the Vermont Municipal Bond Bank; representatives of existing municipal, cooperative, and investor-owned utilities; the Vermont Department of Public Service; and, where appropriate, the Public Service Board. Reasonable administrative support for the Working Group shall be provided upon request by the Department of Public Service and the Office of Legislative Council. The Working Group may retain professional assistance to undertake the duties required herein.

(e) Reimbursement. Legislative members of the Working Group shall receive per diem and expenses pursuant to 2 V.S.A. § 406, and members of the Working Group who are not State employees may be compensated by their appointing authorities.

(f) Public records. Commercial and financial information of a proprietary nature produced or acquired by the Working Group shall be exempt from public inspection and copying under the Public Records Act if public release of the information could jeopardize the position of the State of Vermont and its agents in negotiations or in the purchase of the facilities on advantageous terms.

(g) Meetings. The members of the Working Group shall be appointed not later than 13 days following passage of this act and the Secretary of Administration shall convene the Working Group not later than 15 days after the effective date of this act.

(h) Appropriation. The Secretary of Administration is authorized to expend $75,000.00 from general funds appropriated to the Executive Branch in the FY 2017 Appropriations Act for the study required in this section. If the Secretary determines that additional expenditures are necessary to preserve options on behalf of the State, the Working Group is authorized to approve the Secretary's use of an additional $175,000.00 from general funds appropriated to the Executive Branch in the FY 2017 Appropriations Act. The Secretary shall make an offsetting reduction or funds transfer for any amount expended from the funds appropriated to the Executive Branch in the FY 2017 Appropriations Act. Any additional funding shall require approval from the Emergency Board.

(i) Report. On or before August 1, 2016, the Working Group shall submit a report on the study and recommendation described in subsection (c) of this section to the Senate Committees on Finance and on Natural Resources and Energy, and the House Committees on Commerce and Economic Development and on Natural Resources and Energy.

(j) Bid. If the Working Group's report described in subsection (i) of this section includes a recommendation to purchase the dam facilities, then the Working Group is authorized to submit a bid to purchase the dam facilities; provided, however, that the Working Group shall obtain approval of the General Assembly to proceed with the bid within 14 days of receipt of notification that the bid has been accepted. If the bid is accepted when the General Assembly is not in session, then the Working Group shall request that the Governor convene a special session for the purpose of approving the bid.

Sec. 4. 30 V.S.A. chapter 90 is added to read:

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authorized wholesale purchasers. The purchase and operation of an interest shall be pursued with the following goals:

(1) to promote the general good of the State;

(2) to stimulate the development of the Vermont economy;

(3) to increase the degree to which Vermont's energy needs are met through environmentally-sound sustainable and renewable in-state energy sources;

(4) to lessen electricity price risk and volatility for Vermont ratepayers and to increase system reliability;

(5) to not compete with Vermont utilities;

(6) to ensure that the credit rating of the State will not be adversely affected and Vermont taxpayers will not be liable should the purchase of the facilities fail because of the failure to produce sufficient revenue to service the debt, the failure of a partner, or for any other reason; and

(7) to cause the facilities to be operated in an environmentally sound manner consistent with federal licenses and purposes.

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(1) "Authority" means the Vermont Hydroelectric Power Authority established by this chapter.

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while serving as a director, shall be an employee, board member, or director, or have a substantial ownership interest in an electric company regulated by the Public Service Board or the Department of Public Service under this title;

(2) The State Treasurer, who shall serve ex officio; and

(3) One director shall be a representative of the Department of Public Service, appointed by the Commissioner, who shall serve at the pleasure of the Commissioner.

(b) Terms and vacancies. The directors appointed by the Governor shall be appointed for terms of five years and until their successors are appointed and confirmed, except that the first directors shall be appointed in the following manner: one for a term of two years, two for a term of three years, and two for a term of five years. The Governor for cause may remove a director appointed by a Governor. The Governor may fill any vacancy occurring among the directors appointed by a Governor for the balance of the unexpired term. A director may be reappointed.

(c) Officers. The Authority shall elect a chair, a vice chair, and a treasurer from among its directors.

(d) Quorum. A quorum shall consist of four directors. No action of the Authority shall be considered valid unless the action is supported by a majority vote of the directors present and voting and then only if at least four directors vote in favor of the action.

(e) Compensation. Directors shall be compensated for necessary expenses incurred in the performance of their duties in the manner provided by 32 V.S.A. § 1010(b).

(f) Bylaws. The Authority's board of directors shall adopt bylaws or other rules and regulations for the management of the affairs of the Authority and carrying out the purposes of this chapter.

(g) Conflicts. Despite any law or charter provision to the contrary, a director or officer of the Authority who is also an officer, employee, or member of a legislative body of a municipality or other public body or of the State shall not thereby be precluded from voting or acting on behalf of the Authority on a matter involving the municipality or public body or the State.

§ 8044. MANAGER

(a) Manager. The Authority shall employ and compensate a manager who shall serve under a contract for a specific term or at the pleasure of the Authority. The Authority, with the Governor's approval, shall fix the manager's compensation. The manager shall be the chief executive officer of

the Authority and shall administer, manage, and direct the affairs and business of the Authority, subject to the policies, control, and direction of the directors.

(b) Interim manager. The Governor or the Governor's designee shall have the power to appoint an interim manager upon enactment of this chapter, who shall serve at the Governor's pleasure, under the Governor's direction, and for compensation established by the Governor. The interim manager, with the approval of the Governor or the Governor's designee, shall have full authority to take all actions authorized under this chapter to protect and advance the interests of the State of Vermont until such time as a manager employed pursuant to subsection (a) of this section has assumed office.

§ 8045. TERMINATION

(a) The Authority shall continue so long as it shall have any obligations or indebtedness outstanding and until its existence is terminated by law. Upon termination of the Authority, title to all of the property owned by the Authority shall vest in the State. The State reserves the right to change or terminate the Authority and any structure, organization, program, or activity of the Authority, subject to constitutional limitations.

(b) The net earnings of the Authority, beyond those necessary for retirement of its notes, bonds, or other obligations or indebtedness or to implement the public purposes and programs authorized in this chapter, shall not inure to the benefit of any person other than the State.

Subchapter 2. Powers and Prohibitions

§ 8046. GENERAL POWERS

The Authority has the following powers as are necessary to carry out the purposes of this chapter:

(1) To borrow money and to issue negotiable bonds, notes, and commercial paper, and give other evidences of indebtedness or obligations, and to provide for and secure the payment thereof, and to provide for the rights of the holders thereof, to purchase, hold, and dispose of any of its bonds, notes, or commercial paper, and to resell or retire any such evidences of indebtedness or obligations prior to the stated maturity thereof.

(2) To enter into all contracts, leases, agreements, and arrangements, including such agreements with other persons as the Authority deems necessary or appropriate in connection with the issuance, sale, and resale of evidences of indebtedness or obligations, including trust indentures, bond purchase agreements, disclosure agreements, remarketing agreements, agreements providing liquidity or credit facilities, bond insurance, or other

credit enhancements in connection with such evidences of indebtedness or obligations.

(3) To acquire by purchase, lease, gift, or otherwise, or to obtain options for the acquisition of property necessary to carry out the purposes of this chapter, real or personal, improved or unimproved, tangible or intangible, including an interest in land of less than fee.

(4) To pledge or assign any money, fees, charges, or other revenues of the Authority and any proceeds derived by the Authority from the sale of property or from insurance or condemnation awards.

(5) To employ personnel who, in the discretion of the Authority, may be in the classified system under 3 V.S.A. chapter 13, and to employ or contract with agents, consultants, legal advisors, and other persons and entities as may be necessary or desirable for its purposes, upon such terms as the Authority may determine.

(6) To apply and contract for and to expend assistance from the United States or other sources, whatever the form.

(7) To administer its own funds and to deposit funds which are not needed currently to meet the obligations of the Authority.

(8) To invest funds which are not needed currently to meet the obligations of the Authority, pursuant to an investment policy approved by the State Treasurer.

(9) To apply to the appropriate agencies of the State, other states, the United States, and to any other proper agency for permits, licenses, certificates, or approvals which may be necessary, and to construct, maintain, and operate the facilities in accordance with these licenses, permits, certificates, or approvals;

(10) To contract with respect to the purchase, sale, delivery, exchange, interchange, wheeling, pooling, transmission, or use of project electric power and energy and to otherwise participate in intrastate, interstate, and international wholesale arrangements with respect to those matters.

(11) To contract for the use of transmission and distribution facilities owned by others solely for the purpose of engaging in wholesale transactions.

(12) Alone or jointly, to plan, finance, acquire, construct, improve, purchase, operate, maintain, use, share costs of, own, lease, sell, dispose of, or otherwise participate in the facilities or portions of the facilities, the product or service from them, securities or obligations issued or incurred in connection with the financing of them, or research and development relating to them, within or outside the state.

(13) To sell electric power at wholesale within or outside the State.

(14) To undertake a joint financing of the facilities.

(15) To accept and expend with respect to a facility, project, or program any gifts or grants received from any source in accordance with the terms of the gifts or grants.

(16) To exercise all powers necessary or incidental to affect any or all of the purposes for which the Authority is created.

§ 8047. PROHIBITIONS

The Authority shall take no action to cause, nor shall any provision of this chapter be construed to impose, any obligation upon the State as a result of the insolvency of a partner.

§ 8048. OBLIGATIONS NOT OBLIGATIONS OF THE STATE

(a) The Authority shall have the benefit of sovereign immunity to the same extent as the State of Vermont.

(b) Notwithstanding subsection (a) of this section:

(1) obligations of the Authority under a contract authorized by this chapter shall not be deemed to constitute an obligation, indebtedness, or a lending of credit of the State; and

(2) no financing or security document, bond, or other instrument issued or entered into in the name and on behalf of the Authority under this chapter shall in any way obligate the State to raise any money by taxation or use other funds for any purpose to pay any debt or meet any financial obligation to any person at any time in relation to a facility, project, or program financed in whole or in part by the issue of the Authority's bonds under this chapter.

§ 8049. RECORDS; ANNUAL REPORT; AUDIT

(a) The Authority shall keep an accurate account of all its activities and of all its receipts and expenditures.

(b) Each year, prior to February 1, the Authority shall submit a report of its activities for the preceding fiscal year to the Governor and to the General Assembly. The report shall set forth a complete operating and financial statement covering its operations during the year. The Authority shall cause an audit of its books and accounts to be made at least once in each year by a certified public accountant. The cost of the audit shall be considered an expense of the Authority, and a copy of the audit shall be filed with the State Treasurer.

Subchapter 3. Form and Nature of Indebtedness; Approval

§ 8050. BONDS; INDEBTEDNESS

(a) Issue. The Authority may issue bonds, or any other forms of indebtedness, to pay the costs of purchasing the facilities, or property related to such facilities, to pay the costs of repairs, replacements, or expansions of the facilities, to pay capitalized interest and costs of issuance, which have been approved by the Authority, or to refund bonds previously issued.

(b) Form of bonds. Bonds issued under this section shall bear the manual or facsimile signature of the manager of the Authority and the manual or facsimile signature of the Chair or Vice Chair of the Authority. Bonds shall be sold by the signing officers at public or private sale, and the proceeds thereof shall be paid to the trustee under the security document that secures the bonds. Such bonds shall be in such form and denominations, and with such terms and provisions, including the maturity date or dates, redemption provisions, and other provisions necessary or desirable. Such bonds shall be either taxable or tax-exempt and shall be noninterest bearing, or bear interest at such rate or rates, which may be fixed or variable, as may be sufficient or necessary to effect the issuance and sale or resale thereof. If any swaps or similar derivative instrument is used in the issuance of such bonds, the Authority shall employ a swap adviser to develop an interest rate management plan.

(c) Trustee. A state or national chartered bank, Vermont bank, or Vermont trust company may serve as trustee for the benefit of debtholders under a security document, and the trustee may at any time own all or any part of the indebtedness issued under that security document, unless otherwise provided therein. All monies received or held by the Authority or by a trustee pursuant to a financing or security document shall be deemed to be trust funds and shall be held and applied solely in accordance with the applicable document.

(d) Enforcement. Except as provided in any financing or security document entered into or any indebtedness issued under this chapter, each of the parties to the financing or security document or any debtholder may enforce the obligation of any other person to the party or debtholder under the bond or instrument by appropriate legal proceedings.

(e) Legal investments. Any indebtedness issued under this chapter shall be legal investments for all persons without limit as to the amount held, regardless of whether they are acting for their own account or in a fiduciary capacity. Such bonds shall likewise be legal investments for all public officials authorized to invest public funds.

§ 8051. BONDS; INDEBTEDNESS; APPROVAL

The Authority shall issue indebtedness under this chapter pursuant to guidelines developed by the State Treasurer. The Governor and the State Treasurer shall provide written approval prior to any issuance.

Subchapter 4. Funds and Accounts

§ 8052. FUNDS; ACCOUNTS.

The Authority shall establish funds and accounts, including reserve funds, necessary to meet the Authority's operating and capital needs, and the provisions of any security documents. Any debt service reserves shall be structured to be consistent with applicable guidelines established by the Internal Revenue Service.

Sec. 5. VERMONT HYDROELECTRIC POWER AUTHORITY; TRANSITIONAL PROVISION; APPOINTMENT; TERMINATION

(a) The Governor shall appoint the directors of the Authority within 14 days following the request of the Vermont Hydroelectric Power Acquisition Working Group.

(b) Sec. 9 of this act, creating 30 V.S.A. chapter 90, shall terminate on January 15, 2017 if at that time the State has not purchased or commenced negotiations to purchase, the dam facilities, as determined by the Secretary of Administration.

* * * Telecommunications Siting; Local Input; Collocation * * *

Sec. 5a. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

(a) Certificate. Notwithstanding any other provision of law, if the applicant seeks approval for the construction or installation of telecommunications facilities that are to be interconnected with other telecommunications facilities proposed or already in existence, the applicant may obtain a certificate of public good issued by the Public Service Board under this section, which the Board may grant if it finds that the facilities will promote the general good of the State consistent with subsection 202c(b) of this title. A single application may seek approval of one or more telecommunications facilities. An application under this section shall include a copy of each other State and local permit, certificate, or approval that has been issued for the facility under a statute, ordinance, or bylaw pertaining to the environment or land use.

(b) Definitions. As used in this section:

(1) "Ancillary improvements" means telecommunications equipment and site improvements that are primarily intended to serve a telecommunications facility, including wires or cables and associated poles to connect the facility to an electric or communications grid; fencing; equipment cabinets or shelters; emergency backup generators; and access roads.

(2) "De minimis modification" means the addition, modification, or replacement of telecommunications equipment, antennas, or ancillary improvements on a telecommunications facility or existing support structure, whether or not the structure was constructed as a telecommunications facility, or the reconstruction of such a facility or support structure, provided:

(A) the height and width of the facility or support structure, excluding equipment, antennas, or ancillary improvements, are not increased;

(B) the total amount of impervious surface, including access roads, surrounding the facility or support structure is not increased by more than 300 square feet;

(C) the addition, modification, or replacement of an antenna or any other equipment on a facility or support structure does not extend vertically more than 10 feet above the facility or support structure and does not extend horizontally more than 10 feet from the facility or support structure; and

(D) the additional equipment, antennas, or ancillary improvements on the support structure, excluding cabling, does not increase the aggregate surface area of the faces of the equipment, antennas, or ancillary improvements on the support structure by more than 75 square feet.

(3) "Good cause" means a showing of evidence that the substantial deference required under subdivision (c)(2) of this section would create a substantial shortcoming detrimental to the public good or State's interests in section 202c of this title.

(4)(A) "Limited size and scope" means:

(i) A new telecommunications facility, including any ancillary improvements, that does not exceed 140 feet in height; or

(ii) An addition, modification, replacement, or removal of telecommunications equipment at a lawfully constructed telecommunications facility or on an existing support structure, and ancillary improvements, that would result in a facility of a total height of less than 200 feet and does not increase the width of the existing support structure by more than 20 feet.

(B) For construction described in subdivision (3)(A) of this subsection to be of limited size and scope, it shall not disturb more than 10,000 square feet of earth. ~~For purposes of~~ As used in this subdivision,

"disturbed earth" means the exposure of soil to the erosive effects of wind, rain, or runoff.

(5) "Substantial deference" means that the plans and recommendations referenced under subdivision (c)(2) of this section are presumed correct, valid, and reasonable.

~~(4)~~(6) "Telecommunications facility" means a communications facility that transmits and receives signals to and from a local, State, national, or international network used primarily for two-way communications for commercial, industrial, municipal, county, or State purposes and any associated support structure that is proposed for construction or installation which is primarily for communications purposes, and any ancillary improvements that are proposed for construction or installation and are primarily intended to serve the communications facilities or support structure. An applicant may seek approval of construction or installation of a telecommunications facility whether or not the telecommunications facility is attached to an existing structure.

~~(5)~~(7) "Wireless service" means any commercial mobile radio service, wireless service, common carrier wireless exchange service, cellular service, personal communications service (PCS), specialized mobile radio service, paging service, wireless data service, or public or private radio dispatch service.

(c) Findings. Before the Public Service Board issues a certificate of public good under this section, it shall find that:

(1) The proposed facility will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety, and the public's use and enjoyment of the I-89 and I-91 scenic corridors or of any highway that has been designated as a scenic road pursuant to 19 V.S.A. § 2501 or a scenic byway pursuant to 23 U.S.C. § 162, with due consideration having been given to the relevant criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K). However, with respect to telecommunications facilities of limited size and scope, the Board shall waive all criteria of this subdivision other than 10 V.S.A. § 6086(a)(1)(D)(floodways) and (a)(8)(aesthetics, scenic beauty, historic sites, rare and irreplaceable natural areas; endangered species; necessary wildlife habitat). Such waiver shall be on condition that:

(A) the Board may determine, pursuant to the procedures described in subdivision (j)(2)(A) of this section, that a petition raises a significant issue with respect to any criterion of this subdivision; and

(B) a telecommunications facility of limited size and scope shall comply, at a minimum, with the requirements of the Low Risk Site Handbook for Erosion Prevention and Sediment Control issued by the Department of Environmental Conservation, regardless of any provisions in that handbook that limit its applicability.

(2) Unless there is good cause to find otherwise, substantial deference has been given to ~~the land conservation measures in~~ the plans of the affected municipalities ~~and~~; to the recommendations of the municipal legislative bodies and the municipal ~~and regional~~ planning commissions regarding the municipal ~~and regional~~ plans~~, respectively~~; and to the recommendations of the regional planning commission concerning the regional plan. Nothing in this section or other provision of law shall prevent a municipal body from basing its recommendations to which substantial deference is required under this subdivision (2) on an ordinance adopted under 24 V.S.A. § 2291(19) or bylaw adopted under 24 V.S.A. chapter 117 by the municipality in which the facility is located. A rebuttable presumption respecting compliance with the applicable plan shall be created by a letter from an affected municipal legislative body or municipal planning commission concerning compliance with the municipal plan and by a letter from a regional planning commission concerning compliance with the regional plan.

(3) If the proposed facility relates to the provision of wireless service, the proposed facility reasonably cannot be collocated on or at an existing telecommunications facility, or such collocation would cause an undue adverse effect on aesthetics.

(A) If a proposed new support structure for a new telecommunications facility that provides wireless service will exceed 50 feet in height in a cleared area or will exceed 20 feet in height above the average treeline measured within a 100-foot radius from the structure in a wooded area, the application shall identify all existing telecommunications facilities within the area to be served by the proposed structure and, for each such existing facility, shall include a projection of the coverage and an estimate of additional capacity that would be provided if the applicant's proposed telecommunications equipment were located on or at the existing facility. The applicant also shall compare each such projection and estimate to the coverage and capacity that would be provided at the site of the proposed structure.

(B) To obtain a finding that a proposed facility cannot reasonably be collocated on or at an existing telecommunications facility, the applicant must demonstrate that:

(i) collocating on or at an existing facility will result in a significant reduction of the area to be served or the capacity to be provided by

the proposed facility or substantially impede coverage or capacity objectives for the proposed facility that promote the general good of the State under subsection 202c(b) of this title;

(ii) the proposed antennas and equipment will exceed the structural or spatial capacity of the existing or approved tower or facility, and the existing or approved tower or facility cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment, at a reasonable cost, to provide coverage and capacity comparable to that of the proposed facility;

(iii) the owner of the existing facility will not provide space for the applicant's proposed telecommunications equipment on or at that facility on commercially reasonable terms; or

(iv) the proposed antennas and equipment will cause radio frequency interference that will materially impact the usefulness of other existing or permitted equipment at the existing or approved tower or facility and such interference cannot be mitigated at a reasonable cost.

* * *

(e) Notice. No less than ~~45~~ 60 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the Secretary of Natural Resources; the Secretary of Transportation; the Division for Historic Preservation; the Commissioner of Public Service and its Director for Public Advocacy; the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions.

(1) Upon motion or otherwise, the Public Service Board shall direct that further public or personal notice be provided if the Board finds that such further notice will not unduly delay consideration of the merits and that additional notice is necessary for fair consideration of the application.

(2) On the request of the municipal legislative body or the planning commission, the applicant shall attend a public meeting with the municipal legislative body or planning commission, or both, within the ~~45-day~~ 60-day notice period before filing an application for a certificate of public good. The Department of Public Service shall attend the public meeting on the request of the municipality. The Department shall consider the comments made and

information obtained at the meeting in making recommendations to the Board on the application and in determining whether to retain additional personnel under subsection (o) of this section.

(3) With the notice required under this subsection, the applicant shall include a written assessment of the collocation requirements of subdivision (c)(3) of this section, as they pertain to the applicant's proposed telecommunications facility. On the request of the municipal legislative body or the planning commission, the Department of Public Service, pursuant to its authority under subsection (o) of this section, shall retain an expert to review the applicant's collocation assessment and to conduct further independent analysis, as necessary. Within 45 days of receiving the applicant's notice and collocation assessment, the Department shall report its own preliminary findings and recommendations regarding collocation to the applicant and to all persons required to receive notice of an application for a certificate of public good under this subsection (e).

* * *

(h) Exemptions from other law.

(1) An applicant using the procedures provided in this section shall not be required to obtain a permit or permit amendment or other approval under the provisions of 24 V.S.A. chapter 117 or 10 V.S.A. chapter 151 for the facilities subject to the application or to a certificate of public good issued pursuant to this section. This exemption from obtaining a permit or permit amendment under 24 V.S.A. chapter 117 shall not affect the substantial deference to be given to a plan or recommendation based on a local land use bylaw under subdivision (c)(2) of this section.

(2) ~~Ordinances~~ An applicant using the procedures provided in this section shall not be required to obtain an approval from the municipality under an ordinance adopted pursuant to 24 V.S.A. § 2291(19) or a municipal charter that would otherwise apply to the construction or installation of facilities subject to this section ~~are preempted~~. This exemption from obtaining an approval under such an ordinance shall not affect the substantial deference to be given to a plan or recommendation based on such an ordinance under subdivision (c)(2) of this section.

(3) Disputes over jurisdiction under this section shall be resolved by the Public Service Board, subject to appeal as provided by section 12 of this title. An applicant that has obtained or been denied a permit or permit amendment under the provisions of Title 24 or 10 V.S.A. chapter 151 for the construction of a telecommunications facility may not apply for approval from the Board

for the same or substantially the same facility, except that an applicant may seek approval for a modification to such a facility.

* * *

Sec. 5b. 24 V.S.A. § 4412(8)(C) is amended to read:

(C) The regulation of a telecommunications facility, as defined in 30 V.S.A. § 248a, shall be exempt from municipal approval under this chapter when and to the extent jurisdiction is assumed by the Public Service Board according to the provisions of that section. This exemption from obtaining approval under this chapter shall not affect the substantial deference to be given to a plan or recommendation based on a local land use bylaw under 30 V.S.A. § 248a(c)(2).

* * * Department of Public Service; CPG; Complaint Protocol * * *

Sec. 5c. DEPARTMENT OF PUBLIC SERVICE; CERTIFICATE OF PUBLIC GOOD; COMPLAINT PROTOCOL

(a) Not later than September 1, 2016, the Commissioner of Public Service shall establish and implement a protocol for handling complaints concerning the alleged failure of a company to comply with the terms and conditions of a certificate of public good issued by the Public Service Board under 30 V.S.A. §§ 248 or 248a. The Commissioner may revise the protocol at any time to achieve a more effective and satisfactory response to complaints.

(b) The purpose of this section is to create a single location within State government for receipt and tracking of all complaints described in subsection (a) of this section. The protocol shall include a process for filing, investigating, and responding to complaints in a timely manner, as well as a procedure for tracking the number and nature of complaints received and a summary of actions taken by the Department of Public Service in response to each complaint, which information shall be aggregated and reported annually to the General Assembly beginning January 1, 2017, notwithstanding 2 V.S.A. § 20(d). In addition, the Department shall keep a record of complaints filed under the protocol. A summary of the record shall be published on a website maintained by the Department to increase public awareness and transparency, which may reduce the occurrence of redundant complaint filings. The Commissioner's protocol shall include standards and procedures for consolidating complaints of a similar nature involving the same company and procedures under which a company receiving a complaint informs the Department of the complaint and its nature and such information as the Commissioner determines is necessary to track its progress and response.

(c) A complainant shall not be required to direct a complaint to a company prior to submitting a complaint with the Department of Public Service pursuant to the complaint protocol established under this section.

(d) The Commissioner may retain experts and other personnel as identified in 30 V.S.A. § 20 to investigate complaints, and may allocate the reasonable expenses incurred in retaining such personnel to the company as provided under 30 V.S.A. § 21.

(e) The complaint protocol established under this section shall be in addition to any procedure established under 30 V.S.A. § 208. Unresolved complaints may be considered by the Public Service Board pursuant to its authority under Title 30, including 30 V.S.A. § 8(f), and Public Service Board Rules.

(f) With its report filed under this section on or before January 1, 2018, the Commissioner shall make recommendations regarding the establishment of and payment for an ongoing process for monitoring a company's compliance with a certificate of public good for the purpose of reducing the filing of individual complaints under this section.

* * * VTA Grants; Compliance; Refund * * *

Sec. 5d. VTA GRANT; COMPLIANCE; REFUND

(a) With funds appropriated by the General Assembly in 2011 Acts and Resolves No. 40, Secs. 3 and 49, the Vermont Telecommunications Authority (VTA) awarded VTel Wireless, a subsidiary of the Vermont Telephone Company, a $2,644.093.00 grant to purchase equipment to deploy mobile voice service over its wireless broadband 4G LTE (WOW) network by December 31, 2014. The equipment purchased by VTel does not currently comply with the FCC's E-911 location accuracy requirements and, therefore, has not been deployed.

(b) Consistent with all applicable State and federal requirements, VTel shall provide mobile voice service over its WOW network to not less than 2,000 Vermont customers on or before November 1, 2017.

(c) On or before November 15, 2017, VTel Wireless shall submit to the Department of Public Service, the successor in interest to the VTA, written evidence substantiating compliance with subsection (b) of this section. If the Department of Public Service finds that VTel Wireless has not complied with subsection (b) of this section, VTel shall refund the State of Vermont $2,644.093.00.

(d) Any money refunded to the State under this section shall be deposited into the Connectivity Fund and used solely to support the Connectivity Initiative established under 30 V.S.A. § 7515b.

* * * Communications Union Districts; Budget; Hearing; Date Changes * * *

Sec. 5e. 30 V.S.A. § 3075 is amended to read:

§ 3075. BUDGET

(a) Annually, ~~not later than September 15~~ on or before October 21, the board shall approve and cause to be distributed to the legislative body of each district member for review and comment an annual report of its activities, together with a financial statement, a proposed district budget for the next fiscal year, and a forecast presenting anticipated year-end results. The proposed budget shall include reasonably detailed estimates of:

(1) deficits and surpluses from prior fiscal years;

(2) anticipated expenditures for the administration of the district;

(3) anticipated expenditures for the operation and maintenance of any district communications plant;

(4) payments due on obligations, long-term contracts, leases, and financing agreements;

(5) payments due to any sinking funds for the retirement of district obligations;

(6) payments due to any capital or financing reserve funds;

(7) anticipated revenues from all sources; and

(8) such other estimates as the board deems necessary to accomplish its purpose.

(b) Coincident with a regular meeting thereof, the board shall hold a public hearing ~~not later than November 1~~ on or before November 15 of each year to receive comments from the legislative bodies of district members and hear all other interested persons regarding the proposed budget. Notice of such hearing shall be given to the legislative bodies of district members at least ~~30 days~~ 15 days prior to such hearing. The board shall give consideration to all comments received and make such changes to the proposed budget as it deems advisable.

(c) Annually, ~~not later than December 1~~ on or before December 15, the board shall adopt the budget and appropriate the sums it deems necessary to meet its obligations and operate and carry out the district's functions for the next ensuing fiscal year.

(d) Actions or resolutions of the board for the annual appropriations of any year shall not cease to be operative at the end of the fiscal year for which they were adopted. Appropriations made by the board for the various estimates of the budget shall be expended only for such estimates, but by majority vote of the board the budget may be amended from time to time to transfer funds between or among such estimates. Any balance left or unencumbered in any such budget estimate, or the amount of any deficit at the end of the fiscal year, shall be included in and paid out of the operating budget and appropriations in the next fiscal year. All such budget amendments shall be reported by the district treasurer to the legislative bodies of each district member within 14 days of the end of the fiscal year.

(e) Financial statements and audit results shall be delivered to the legislative bodies of each district member within 10 days of delivery to the board.

* * * Public Advocacy; Department of Public Service; Attorney General; Annual Report * * *

Sec. 5f. PUBLIC ADVOCACY; DEPARTMENT OF PUBLIC SERVICE; ATTORNEY GENERAL; ANNUAL REPORT

(a) The Commissioner of Public Service shall submit to the General Assembly a report summarizing significant cases taking place within the past year and describing the positions taken by the Department of Public Service in those cases. The report also shall summarize the Department's role and positions with respect to other significant topics addressed by the Department's Public Advocacy Division pursuant to alternative regulation or to litigation before the Public Service Board or other tribunal. The report specifically shall refer to the Department's duties and responsibilities under Title 30 and explain how the Department's positions and activities align with those statutory provisions. In addition, the report shall include the terms of any settlement or memorandum of understanding (MOU) negotiated by the Department, the parties that participated in any settlement or MOU negotiations, and documentation of what the Department was able to negotiate on behalf of residential ratepayers and what the Department conceded that was beneficial to the applicable public service company.

(b) The primary purpose of the reporting requirement of this section is to help address concerns regarding any potential compromise of the effectiveness or independence of the Department's representation of ratepayers in rate proceedings, including base rate filings under an alternative regulation plan.

(c) To assist with meeting the purpose stated in subsection (b) of this section, the Attorney General shall monitor and detail at least one rate

proceeding annually and make findings and recommendations related to the effectiveness and independence of the Department's ratepayer advocacy. In performing his or her duties under this section, the Attorney General shall have full access to the work and work product of the Department as it relates to each proceeding he or she monitors. The Attorney General's findings and recommendations shall be included in the Department's annual report.

(d) The report required by this section shall be submitted annually on or before November 1, except that the first report shall be submitted on or before December 1, 2016.

(e) The Department shall not be required to disclose privileged information in connection with a report submitted under this section, nor shall it be required to disclose information relating to litigation strategy in any matters then pending before the Public Service Board or other tribunal.

(f) Prior to submitting a report under this section, the Department shall solicit public comments and shall summarize and respond to such comments by topic in the report. Comments shall be solicited by announcement on the Department's website and by such other means as the Commissioner deems appropriate.

(g) The Public Service Board shall allocate the reasonable expenses incurred by the Attorney General under this section to the public service company involved in a proceeding he or she monitors, as provided in 30 V.S.A. §§ 20 and 21.

* * * Effective Dates * * *

Sec. 6. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 1 and 2 shall take effect on July 1, 2016.

House Proposal of Amendment

S. 14

An act relating to single dose, child-resistant packaging and labeling of marijuana-infused edible or potable products sold by a registered dispensary.

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

First: In Sec. 1, 18 V.S.A. § 4472, after "§ 4472. DEFINITIONS" and before the "* * *" by adding the following:

As used in this subchapter:

(1)(A) "Bona fide health care professional-patient relationship" means a treating or consulting relationship of not less than ~~six~~ three months' duration,

in the course of which a health care professional has completed a full assessment of the registered patient's medical history and current medical condition, including a personal physical examination.

(B) The ~~six-month~~ three-month requirement shall not apply if:

(i) a patient has been diagnosed with:

~~(A)~~(I) a terminal illness;

~~(B)~~(II) cancer ~~with distant metastases~~; ~~or~~

~~(C)~~(III) acquired immune deficiency syndrome; or

(IV) is currently under hospice care.

(ii) a patient had been diagnosed with a debilitating medical condition by a health care professional in another jurisdiction in which the patient had been formerly a resident and the patient, now a resident of Vermont, has the diagnosis confirmed by a health care professional in this State or a neighboring state as provided in subdivision (6) of this section, and the new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination.

(iii) a patient who is already on the registry changes health care professionals three months or less prior to the annual renewal of the patient's registration, provided the patient's new health care professional has completed a full assessment of the patient's medical history and current medical condition, including a personal physical examination.

* * *

(4) "Debilitating medical condition," provided that, in the context of the specific disease or condition described in subdivision (A) or (B) of this subdivision (4), reasonable medical efforts have been made over a reasonable amount of time ~~without success~~ to relieve the symptoms, means:

(A) cancer, multiple sclerosis, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, glaucoma, or the treatment of these conditions, if the disease or the treatment results in severe, persistent, and intractable symptoms; or

(B) a disease, medical condition, or its treatment that is chronic, debilitating, and produces ~~severe, persistent, and~~ one or more of the following intractable symptoms: cachexia or wasting syndrome; ~~severe~~ chronic pain; severe nausea; or seizures.

Second: In Sec. 1, 18 V.S.A. § 4472, after subdivision (11), by inserting the following:

* * *

Third: In Sec. 4, 18 V.S.A. § 4474e, by adding a subdivision (a)(4) to read as follows:

(4) With approval from the Department and in accordance with patient delivery protocols set forth in rule, transport and transfer marijuana to a Vermont postsecondary academic institution for the purpose of research.

Fourth: By striking Sec. 7 and inserting in lieu thereof the following

Sec. 7. EFFECTIVE DATE

(a) This section and Sec. 1 shall take effect on passage.

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

Fifth: That after passage the title of the bill be amended to read:

An act relating to amendments to the marijuana for medical symptom use statutes

House Proposal of Amendment

S. 116

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

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

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

§ 456. PAROLE BOARD INDEPENDENCE

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

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

(1) assistant attorneys general; and

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

(c) If any attorney employed by the Department of Corrections or an assistant attorney general or the direct supervisor of an assistant attorney general who represents the Department of Corrections in parole revocation hearings provides training to the Parole Board members on the subject of

parole revocation hearings, the Defender General shall be notified prior to the training and given the opportunity to participate.

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

§ 857. ADMINISTRATIVE SEGREGATION; PROCEDURAL REQUIREMENTS

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

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

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

§ 204. SUBMISSION OF WRITTEN REPORT; PROTECTION OF RECORDS

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

* * *

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

(2)(A) ~~the~~ The court or Board ~~may in its discretion~~ shall permit ~~the~~ inspection of the presentence investigation report~~, or parts thereof~~ or parole summary, redacted of information that may compromise the safety or

confidentiality of any person, by the State's Attorney~~,~~ and by the defendant or inmate~~,~~ or his or her attorney~~, or~~; and

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

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

* * *

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

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

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

* * *

(10) To establish and maintain, in accordance with such rules and regulations as are established by the Commissioner, ~~a central file at the facility containing an individual file~~ records for each inmate. ~~Except as otherwise may be indicated by the rules and regulations of the Department, the content of the file of an inmate shall be confidential and shall not be subject to public inspection except by court order for good cause shown and shall not be accessible to inmates at the facility. Except as otherwise provided by law, the contents of an inmate's file may be inspected, pursuant to a court order issued ex parte, by a state or federal prosecutor as part of a criminal investigation if the court finds that the records may be relevant to the investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public.~~

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

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

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

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

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

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

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

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

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

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

(B) To provide an offender or inmate access to records relating to him or her if access is not otherwise guaranteed under this subsection, unless providing such access would reveal information that is confidential or exempt from disclosure under a law other than this section, would unreasonably interfere with the Department's ability to perform its functions, or would unreasonably jeopardize the health, safety, security, or rehabilitation of the offender or inmate or of another person. The rules may specify circumstances

under which the Department may limit the number of requests that will be fulfilled per calendar year, as long as the Department fulfills at least one request per calendar year excluding any release of records ordered by a court, and at least one additional request in the same calendar year limited to records not in existence at the time of the original request or not within the scope of the original request. The rules also may specify circumstances when the offender's or inmate's right of access will be limited to an inspection overseen by an agent or employee of the Department. The rules shall reflect the Department's obligation not to withhold a record in its entirety on the basis that it contains some confidential or exempt content, to redact such content, and to make the redacted record available.

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

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

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

§ 5233. EXTENT OF SERVICES

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

* * *

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

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

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

* * *

Sec. 7. EFFECTIVE DATE; TRANSITION PROVISION

(a) This act shall take effect on passage.

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

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

Reported favorably with recommendation of proposal of amendment by Senator Flory for the Committee on Institutions.

The Committee recommends that the Senate concur in the House Proposal of Amendment with further amendment thereto as follows:

First: In Sec. 5, 28 V.S.A. § 107, in subdivision (b)(5), in the first sentence, after the phrase "chapter 25", by inserting the following:

, provided that the Commissioner shall redact any information that may compromise the safety of any person prior to releasing or permitting inspection of such records under the rules

Second: In Sec. 5, 28 V.S.A. § 107, in subdivision (b)(5)(B), in the first sentence, by striking out "or would unreasonably jeopardize" and inserting in lieu thereof the following: or may compromise

(Committee vote: 4-0-1)

House Proposal of Amendment

S. 169

An act relating to the Rozo McLaughlin Farm-to-School Program.

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:

* * * Farm-to-School * * *

Sec. 1. 6 V.S.A. chapter 211 is amended to read:

CHAPTER 211. THE ROZO MCLAUGHLIN FARM-TO-SCHOOL PROGRAM

§ 4719. PURPOSE AND STATE GOAL

(a) Purpose. It is the purpose of this chapter to establish a farm-to-school program to:

(1) encourage Vermont residents in developing healthy and lifelong habits of eating nutritious local foods;

(2) maximize use by Vermont schools of fresh and locally grown, produced, or processed food;

(3) work with partners to establish a food, farm, and nutrition education program that educates Vermont students regarding healthy eating habits through the use of educational materials, classes, and hands-on techniques that inform students of the connections between farming and the foods that students consume;

(4) increase the size and stability of direct sales markets available to farmers; and

(5) increase participation of Vermont students in school meal programs by increasing the selection of available foods.

(b) State Farm to School Network goal. It is the goal of the Farm-to-School Program to establish a food system that by 2025:

(1) engages 75 percent of Vermont schools in an integrated food system education program that incorporates community-based learning; and

(2) purchases 50 percent of food from local or regional food sources.

§ 4720. DEFINITIONS

As used in this chapter, "Farm-to-School Program" means an integrated food, farm, and nutrition education program that utilizes community-based learning opportunities to connect schools with nearby farms to provide

students with locally produced fresh fruits and vegetables, dairy and protein products, and other nutritious, locally produced foods in child nutrition programs; help children develop healthy eating habits; provide nutritional and agricultural education in the classroom, cafeteria, and school community; and improve farmers' incomes and direct access to markets.

§ 4721. LOCAL FOODS GRANT PROGRAM

(a) There is created in the Agency of Agriculture, Food and Markets the Rozo McLaughlin Farm-to-School Program to execute, operate, and award local grants for the purpose of helping Vermont schools develop farm-to-school programs that will sustain relationships with local farmers and producers, enrich the educational experience of students, improve the health of Vermont children, and enhance Vermont's agricultural economy.

(b) A school, a school district, a consortium of schools, ~~or~~ a consortium of school districts, or licensed childcare providers may apply to the Secretary of Agriculture, Food and Markets for a grant award to:

(1) fund equipment, resources, training, and materials that will help to increase use of local foods in the School ~~Food Service~~ Nutrition Program;

(2) fund items, including local ~~farm~~ food products, gardening supplies, field trips to farms, gleaning on farms, and stipends to visiting farmers, that will help teachers to use hands-on educational techniques to teach children about nutrition and farm-to-school connections; and

(3) ~~provide~~ fund professional development and technical assistance, in partnership with the Agency of Education and farm-to-school technical service providers, to help teachers, school nutrition personnel, and members of the farm-to-school community educate students about nutrition and farm-to-school connections and assist schools in developing a farm-to-school program.

(4) fund technical assistance or support strategies to increase participation in federal child nutrition programs that increase viability of sustainable meal programs.

(c) The Secretaries of Agriculture, Food and Markets and of Education and the Commissioner of Health, in consultation with farmers, ~~food service workers~~ school nutrition staff, and educators, and farm-to-school technical service providers jointly shall ~~jointly~~ adopt ~~rules~~ procedures relating to the content of the grant application and the criteria for making awards.

(d) The Secretary shall determine that there is significant interest in the school community before making an award and shall give priority consideration to schools ~~and~~, school districts and licensed child care providers that are developing farm-to-school connections and education that indicate a

willingness to make changes to their school or childcare nutrition programs that increase student access and participation and that are making progress toward the implementation of the Vermont ~~nutrition and fitness policy guidelines~~ School Wellness Policy Guidelines developed by the Agency of Agriculture, Food and Markets, the Agency of Education, and the Department of Health, ~~dated November 2005~~ updated in June 2015 or of the successor of these guidelines.

(e) No award shall be greater than $15,000.00.

§ 4722. FARM ASSISTANCE; SECRETARY OF AGRICULTURE, FOOD AND MARKETS

(a) The Secretary of Agriculture, Food and Markets shall work with existing programs and organizations to develop and implement educational opportunities for farmers to help them to increase their markets through selling their products to schools, licensed child care providers, and State government agencies ~~and participating in the federal food commodities program, including the federal Department of Defense Fresh Program, and selling to regulated child care programs participating in the Adult and Child Food Program~~ that operate or participate in child nutrition programs.

(b) ~~For the purposes of this section and section 4723 of this title, the Secretary may provide funds to one or more technical assistance providers to provide farm-to-school education and teacher training to more school districts and to assist the Secretaries of Agriculture, Food and Markets and of Education to carry out farmer and food service worker training.~~ The Secretary of Agriculture, Food and Markets shall work with distributors that sell products to schools, licensed child care providers, and State government agencies to increase the availability of local products.

§ 4723. PROFESSIONAL DEVELOPMENT FOR FOOD SERVICE PERSONNEL

(a) The Secretary of Education, in consultation with the Secretary of Agriculture, Food and Markets, the Commissioner of Health, and farm-to-school organizations and partners, shall offer ~~expanded regional training sessions~~ professional development opportunities for public school food service and child care personnel and child care resource development specialists ~~as funds are made available~~. Training shall include information about strategies for ~~purchasing~~ procuring, processing, and serving locally grown foods, especially with regard to federal procurement program requirements, as well as information about nutrition, obesity prevention, coping with severe food allergies, universal recycling, and food service operations. The Secretary of Education may use a portion of the funds

appropriated for this training session to pay a portion of or all expenses for attendees and to develop manuals or other materials to help in the training.

(b) The Secretary of Education shall ~~train people as funds are made available to~~, with existing programs and organizations, provide training related to procurement of local food and technical assistance to school food service and child care personnel and use a portion of the funds appropriated for this purpose to enable the trained people to provide technical assistance at the school and school district levels.

(c) Training provided under this section shall promote the policies established in the Vermont ~~nutrition and fitness policy guidelines~~ School Wellness Policy Guidelines developed by the Agencies of Agriculture, Food and Markets and of Education and the Department of Health, ~~dated November 2005~~ updated in June 2015, or the guidelines' successor.

§ 4724. ~~LOCAL FOODS COORDINATOR~~ FOOD SYSTEMS ADMINISTRATOR

(a) The position of ~~local food coordinator~~ Food Systems Administrator is established in the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets for the purpose of assisting Vermont producers ~~to increase~~ in increasing their access to commercial markets and institutions, including schools, ~~state~~ licensed child care providers, State and municipal governments, and hospitals.

(b) The duties of the ~~local foods coordinator~~ Food Systems Administrator shall include:

(1) working with institutions, schools, licensed child care providers, distributors, producers, commercial markets, and others to create matchmaking opportunities that increase the number of Vermont institutions that purchase foods grown or produced in Vermont;

(2) coordinating funding and providing support to the farm-to-school and farm-to-institutions programs within the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets, and coordinating with interested parties to access funding or create matchmaking opportunities across the supply chain that increase participation in those programs;

(3) encouraging and facilitating ~~the enrollment of state employees~~ State employee access and awareness of opportunities for purchasing local food, including: enrollment in a local community supported agriculture (CSA) organization, purchasing from local farm stands, and participation in a farmers' market;

(4) developing a database of producers and potential purchasers and enhancing the ~~agency's website~~ Agency and partners' ability to improve and support local foods coordination through the use of information technology; and

(5) providing technical support to local communities with their food security efforts.

(c) The ~~local foods coordinator~~ Food Systems Administrator, working with the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services pursuant to rules adopted under 29 V.S.A. § 152(14), shall:

(1) encourage and facilitate ~~CSA enrollment~~ awareness of and opportunities to procure healthy local foods by ~~state~~ State employees through the use of approved advertisements and solicitations on ~~state-owned~~ State-owned property; and

(2) implement guidelines for the appropriate use of ~~state~~ State property for employee participation in CSA organizations, including reasonable restrictions on the time, place, and manner of solicitations, advertisements, deliveries, and related activities to ensure the safety and welfare of ~~state~~ State property and its occupants.

(d) The ~~local foods coordinator~~ Food Systems Administrator shall administer a local foods grant program, the purpose of which shall be to provide grants to allow Vermont producers to increase their access to commercial and institutional markets.

Sec. 2. 16 V.S.A. § 559 is amended to read:

§ 559. PUBLIC BIDS

(a) When the cost exceeds $15,000.00. A school board or supervisory union board shall publicly advertise or invite three or more bids from persons deemed capable of providing items or services if costs are in excess of $15,000.00 for any of the following:

(1) the construction, purchase, lease, or improvement of any school building;

(2) the purchase or lease of any item or items required for supply, equipment, maintenance, repair, or transportation of students; or

(3) a contract for transportation, maintenance, or repair services.

* * *

(e) Application of this section. Any contract entered into or purchase made in violation of the provisions of this section shall be void; provided, however, that:

* * *

(4) nothing in this section shall be construed to prohibit a school board from awarding a school nutrition contract after using any method of bidding or requests for proposals permitted under federal law for award of the contract. Notwithstanding the monetary amount in subsection (a) of this section for which a school board is required to advertise publicly or invite three or more bids or requests for proposal, a school board is required to publicly advertise or invite three or more bids or requests for proposal for purchases made from the nonprofit school food service account for purchases in excess of $25,000.00, unless a municipality sets a lower threshold for purchases from the nonprofit school food service account;

* * *

* * * Shelter of Dogs and Cats * * *

Sec. 3. 13 V.S.A. § 351 is amended to read:

§ 351. DEFINITIONS

As used in this chapter:

(1) "Animal" means all living sentient creatures, not human beings.

* * *

(11) "Livestock" means cattle, bison, horses, sheep, goats, swine, cervidae, ratites, and camelids.

* * *

(13) "Livestock and poultry husbandry practices" means the raising, management, and using of animals to provide humans with food, fiber, or transportation in a manner consistent with:

(A) husbandry practices recommended for the species by agricultural colleges and the U.S. Department of Agriculture Extension Service;

(B) husbandry practices modified for the species to conform to the Vermont environment and terrain; and

(C) husbandry practices that minimize pain and suffering.

* * *

(15) "Living space" means any cage, crate, or other structure used to confine an animal that serves as its principal, primary housing and that provides protection from the elements. Living space does not include a structure, such as a doghouse, in which an animal is not confined, or a cage, crate, or other structure in which the animal is temporarily confined.

(16) "Adequate food" means food that is not spoiled or contaminated and is of sufficient quantity and quality to meet the normal daily requirements for the condition and size of the animal and the environment in which it is kept. An animal shall be fed or have food available at least once each day, unless a licensed veterinarian instructs otherwise, or withholding food is in accordance with accepted ~~agricultural or veterinarian~~ veterinary practices or livestock and poultry husbandry practices.

(17) "Adequate water" means ~~fresh, potable water provided at suitable intervals for the species, and which, in no event, shall exceed 24 hours at any interval. The animal must have access to the water~~ potable water that is either accessible to the animal at all times or is provided at suitable intervals for the species and in sufficient quantity for the health of the animal. In no event shall the interval when water is provided exceed 24 hours. Snow or ice is not an adequate water source unless provided in accordance with livestock and poultry husbandry practices.

(18) "Adequate shelter" means shelter ~~which~~ that protects the animal from injury and environmental hazards.

(19) "Enclosure" means any structure, fence, device, or other barrier used to restrict an animal or animals to a limited amount of space.

(20) "Livestock guardian dog" means a purpose-bred dog that is:

(A) specifically trained to live with livestock without causing them harm while repelling predators;

(B) being used to live with and guard livestock; and

(C) acclimated to local weather conditions.

Sec. 4. 13 V.S.A. § 365 is amended to read:

§ 365. SHELTER OF ANIMALS

(a) Adequate shelter. All livestock and animals ~~which~~ that are to be predominantly maintained ~~out-of-doors must~~ in an outdoor area shall be provided with adequate shelter to prevent direct exposure to the elements.

(b) Shelter for livestock.

(1) Adequate natural shelter, or a three-sided, roofed building with exposure out of the prevailing wind and of sufficient size to adequately accommodate all livestock maintained ~~out-of-doors~~ in an outdoor area shall be provided. The building opening size and height ~~must~~ shall, at a minimum, extend one foot above the withers of the largest animal housed and ~~must~~ shall be maintained at that level even with manure and litter build-up. Nothing in this section shall control dairy herd housing facilities, either loose housing, comfort stall, or stanchion ties, or other housing under control of the ~~department of agriculture, food and markets~~ Agency of Agriculture, Food and Markets. This section shall not apply to any accepted housing or grazing practices for any livestock industry.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, livestock may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with livestock and poultry husbandry practices, and are provided sufficient food, water, shelter, and proper ventilation.

(c) Minimum size of living space; dogs and cats.

(1) A dog~~, whether chained or penned,~~ shall be provided an adequate living space ~~no less than three feet by four feet for 25 pound and smaller dogs, four feet by four feet for 26-35 pound dogs, four feet by five feet for 36-50 pound dogs, five feet by five feet for 51-99 pound dogs, and six feet by five feet for 100 pound and larger dogs~~ that is large enough to allow the dog, in a normal manner, to turn about freely, stand, sit, and lie down. A dog shall be presumed to have adequate living space if provided with the floor space in square footage calculated according to the following formula: Floor space in square feet = (length of dog in inches + 6) × (length of dog in inches + 6) ÷ 144. The length of the dog in inches shall be measured from the tip of the nose of the dog to the base of its tail.

(2) The specifications required by subdivision (c)(1) of this section shall ~~apply to~~ be required for each dog, regardless of whether the dog is housed individually or with other animals.

(3)(A) A cat over the age of two months shall be provided adequate living space that is large enough to allow the cat, in a normal manner, to turn about freely, stand, sit, and lie down. A cat shall be presumed to have adequate living space if provided with:

(i) floor space, including raised resting platforms, of at least nine square feet; and

(ii) a primary structure of at least 24 inches in height.

(B) The requirements of this subdivision (c)(3) shall apply to each cat regardless of whether the cat is housed individually or with other animals.

(4)(A) Each female dog with nursing puppies shall be provided the living space required under subdivision (1) of this subsection (c) plus sufficient additional floor space to allow for a whelping box and the litter, based on the size or the age of the puppies. When the puppies discontinue nursing, the living space requirements of subdivisions (1) and (2) of this subsection shall apply for all dogs housed in the same living space.

(B) Each female cat with nursing kittens shall be provided the living space required under subdivision (3) of this subsection (c) plus sufficient additional floor space to allow for a queening box and the litter, based on the size or the age of the kittens. When the kittens discontinue nursing, the living space requirements of subdivision (3) of this subsection shall apply for all cats housed in the same living space.

(5) Dogs or cats that are housed in the same primary living space or enclosure shall be compatible, as determined by observation, provided that:

(A) Females in heat (estrus) shall not be housed in the same primary living space or enclosure with males, except for breeding purposes.

(B) A dog or cat exhibiting a vicious or overly aggressive disposition shall be housed separately from other dogs or cats.

(6) All dogs or cats shall have access to adequate water and adequate food.

(d) Daily exercise; dogs or cats. A dog or cat confined in a living space shall be permitted outside the ~~cage, crate, or structure~~ living space for an opportunity of at least one hour of daily exercise, unless otherwise modified or restricted by a licensed veterinarian. Separate space for exercise is not required if an animal's living space is at least three times larger than the minimum requirements set forth in subdivision (c)(1) of this section.

(e) Shelter for dogs maintained outdoors in enclosures.

(1) ~~A~~ Except as provided in subdivision (2) of this subsection, a dog or dogs maintained ~~out-of-doors must~~ outdoors in an enclosure shall be provided with ~~suitable housing that assures that the dog is protected from wind and draft, and from excessive sun, rain and other environmental hazards throughout the year a primary~~ one or more shelter ~~structure~~ structures. A shelter structure shall:

(A) Provide each dog housed in the structure sufficient space to, in a normal manner, turn about freely, stand, sit, and lie down.

(B) Be structurally sound and constructed of suitable, durable material.

(C) Have four sides, a roof, and a ground or floor surface that enables the dog to stay clean and dry.

(D) Have an entrance or portal large enough to allow each dog housed in the shelter unimpeded access to the structure, and the entrance or portal shall be constructed with a windbreak or rainbreak.

(E) Provide adequate protection from cold and heat, including protection from the direct rays of the sun and the direct effect of wind, rain, or snow. Shivering due to cold is evidence of inadequate shelter for any dog.

(F) Contain clean, dry bedding material if the ambient temperature is below 50 degrees Fahrenheit.

(2) A shelter structure is not required for a healthy livestock guardian dog that is maintained outdoors in an enclosure.

(3) If multiple dogs are maintained outdoors in an enclosure at one time:

(A) Each dog will be provided with an individual structure, or the structure or structures provided shall be cumulatively large enough to contain all of the dogs at one time.

(B) A shelter structure shall be accessible to each dog in the enclosure.

(4) The following categories of dogs shall not be maintained outdoors in an enclosure when the ambient temperature is below 50 degrees Fahrenheit:

(A) dogs that are not acclimated to the temperatures prevalent in the area or region where they are maintained;

(B) dogs that cannot tolerate the prevalent temperatures of the area without stress or discomfort; and

(C) sick or infirm dogs or dogs that cannot regulate their own body temperature.

(5) Metal barrels, cars, refrigerators, freezers, and similar objects shall not be used as a shelter structure for a dog maintained in an outdoor enclosure.

(6) In addition to the shelter structure, one or more separate outdoor areas of shade shall be provided, large enough to contain all the animals and protect them from the direct rays of the sun.

(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 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 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.

(g) ~~A cat, over the age of two months, shall be provided minimum living space of nine square feet, provided the primary structure shall be constructed and maintained so as to provide sufficient space to allow the cat to turn about freely, stand, sit, and lie down. Each primary enclosure housing cats must be at least 24 inches high. These specifications shall apply to each cat regardless of whether the cat is housed individually or with other animals.~~ [Repealed.]

(h) ~~Notwithstanding the provisions of this section, animals may be temporarily confined in a space sufficient for them to stand and turn about freely, provided that they are exercised in accordance with accepted agricultural or veterinarian practices, and are provided sufficient food, water, shelter, and proper ventilation.~~ [Repealed.]

(i) Violations. Failure to comply with this section shall be a violation of subdivision 352(3) or (4) of this title.

(j) ~~Notwithstanding the provisions of this section, an animal may be sheltered, chained, confined, or maintained out-of-doors if doing so is directed by a licensed veterinarian or is in accordance with accepted agricultural or veterinarian practices.~~ [Repealed.]

* * * State Vegetable * * *

Sec. 5. 1 V.S.A. § 519 is added to read:

§ 519. STATE VEGETABLE

The State Vegetable shall be the Gilfeather turnip.

* * * Effective Date * * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

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

An act relating to miscellaneous agricultural subjects

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. 245

An act relating to notice to patients of new health care provider affiliations.

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. GREEN MOUNTAIN CARE BOARD; NOTICE TO PATIENTS OF NEW AFFILIATION

The Green Mountain Care Board shall maintain a policy for reviewing new physician acquisitions and transfers as part of the Board's hospital budget review responsibilities. The policy shall require hospitals to provide written

notice about a new acquisition or transfer of health care providers to each patient served by an acquired or transferred health care provider, including:

(1) notifying the patient that the health care provider is now affiliated with the hospital;

(2) providing the hospital's name and contact information;

(3) notifying the patient that the change in affiliation may affect his or her out-of-pocket costs, depending on the patient's health insurance plan and the services provided; and

(4) recommending that the patient contact his or her insurance company with specific questions or to determine his or her actual financial liability.

Sec. 2. 18 V.S.A. § 9405c is added to read:

§ 9405c. NOTICE OF ACQUISITION

(a) As used in this section:

(1) "Acquire" means a purchase or transfer through which a hospital will own or control the business of a medical practice.

(2) "Hospital" means a general hospital or hospital facility licensed under chapter 43 of this title.

(3) "Medical practice" means a business through which one or more physicians practice medicine.

(b) Each hospital shall provide notice to the Office of the Attorney General at least 90 days or as soon as practicable prior to the effective date of a transaction through which the hospital will acquire a medical practice. The notice shall include at least the following information:

(1) the name and address of the hospital acquiring the medical practice and contact information for a representative of the hospital; and

(2) the name and address of the medical practice being acquired and contact information for a representative of the medical practice.

(c) 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 be kept confidential except to the extent necessary to allow the Office to perform an inquiry into potentially anticompetitive practices.

Sec. 3. 33 V.S.A. § 1905a is added to read:

§ 1905a. MEDICAID REIMBURSEMENTS TO CERTAIN OUTPATIENT PROVIDERS

(a) To the extent permitted under federal law, the Department of Vermont Health Access shall not use provider-based billing for outpatient medical services provided at an off-campus outpatient department of a hospital as a result of the provider's transfer to or acquisition by the hospital.

(b) As used in this section, "off-campus" means a facility located more than 250 yards from the main hospital campus.

Sec. 4. PROVIDER REIMBURSEMENT; REPORT

The Green Mountain Care Board shall consider the advisability and feasibility of expanding to commercial health insurers the prohibition on any increased reimbursement rates or provider-based billing for health care providers newly transferred to or acquired by a hospital as described in Sec. 3 of this act. On or before February 1, 2017, the Green Mountain Care Board shall report its findings and recommendations to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance, including its recommendations for the process and timing of implementation of any recommended reimbursement restrictions.

Sec. 5. REDUCING PAYMENT DIFFERENTIALS; GUIDANCE AND IMPLEMENTATION; REPORT

(a) On or before July 15, 2016, the Green Mountain Care Board shall provide to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance a copy of each implementation plan for providing fair and equitable reimbursement amounts for professional services provided by academic medical centers and by other professionals, as required to be developed by health insurers pursuant to 2015 Acts and Resolves No. 54, Sec. 23(b).

(b) No later than 30 days following the Board's review of each implementation plan pursuant to 2015 Acts and Resolves No. 54, Sec. 23(b) but in no event later than December 1, 2016, the Board shall report to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance on its progress toward achieving fair and equitable reimbursement amounts for professional services provided by academic medical centers and by other professionals, without increasing health insurance premiums or public funding of health care, as required by 2015 Acts and Resolves No. 54, Sec. 23(b.

Sec. 6. EFFECTIVE DATES

(a) Secs. 1 (notice to patients) and 2 (notice to Attorney General) shall take effect on July 1, 2016.

(b) Sec. 3 (33 V.S.A. § 1905a) shall take effect on July 1, 2016 and shall apply to all providers transferred to or acquired by a hospital on or after that date.

(c) Secs. 4 and 5 (Green Mountain Care Board reports) and this section shall take effect on passage.

House Proposal of Amendment to Senate Proposal of Amendment

H. 858

An act relating to miscellaneous criminal procedure amendments

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

First: By striking out Secs. 8–11 and 13–41 in their entirety.

Second: By redesignating Sec. 12 to be Sec. 8

Third: By adding Secs. 9–20 to read as follows:

Sec. 9. MARIJUANA YOUTH EDUCATION AND PREVENTION

(a)(1) Relying on lessons learned from tobacco and alcohol prevention efforts, the Department of Health, in collaboration with the Department of Public Safety, the Agency of Education, and the Governor's Highway Safety Program, shall develop and administer an education and prevention program focused on use of marijuana by youths under 25 years of age. In so doing, the Department shall consider at least the following:

(A) Community- and school-based youth and family-focused prevention initiatives that strive to:

(i) expand the number of school-based grants for substance abuse services to enable each supervisory union to develop and implement a plan for comprehensive substance abuse prevention education in a flexible manner that ensures the needs of individual communities are addressed;

(ii) improve the Screening, Brief Intervention and Referral to Treatment (SBIRT) practice model for professionals serving youths in schools and other settings; and

(iii) expand family education programs.

(B) An informational and countermarketing campaign using a public website, printed materials, mass and social media, and advertisements for the purpose of preventing underage marijuana use.

(C) Education for parents and health care providers to encourage screening for substance use disorders and other related risks.

(D) Expansion of the use of SBIRT among the State's pediatric practices and school-based health centers.

(E) Strategies specific to youths who have been identified by the Youth Risk Behavior Survey as having an increased risk of substance abuse.

(2) On or before March 15, 2017, the Department shall adopt rules to implement the education and prevention program described in this subsection and implement the program on or before September 15, 2017.

(b) The Department shall include questions in its biannual Youth Risk Behavior Survey to monitor the use of marijuana by youths in Vermont and to understand the source of marijuana used by this population.

(c) Any data collected by the Department on the use of marijuana by youths shall be maintained and organized in a manner that enables the pursuit of future longitudinal studies.

Sec. 10. [Deleted]

* * *

Sec. 11. [Deleted]

* * *

Sec. 12. 18 V.S.A. § 4230e is added to read:

§ 4230e. CHEMICAL EXTRACTION PROHIBITED

(a) No person shall manufacture concentrated marijuana by means of any liquid or gas, other than alcohol, that has a flashpoint below 100 degrees Fahrenheit.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than two years or fined not more than $2,000.00, or both. A person who violates subsection (a) of this section and causes serious bodily injury to another person shall be imprisoned not more than five years or fined not more than $5,000.00, or both.

Sec. 13. 23 V.S.A. § 1134 is amended to read:

§ 1134. MOTOR VEHICLE OPERATOR; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) A person shall not consume alcoholic beverages or marijuana while operating a motor vehicle on a public highway. As used in this section, "alcoholic beverages" shall have the same meaning as "intoxicating liquor" as defined in section 1200 of this title.

(b) A person operating a motor vehicle on a public highway shall not possess any open container which contains alcoholic beverages or marijuana in the passenger area of the motor vehicle.

(c) As used in this section, "passenger area" shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(d) A person who violates subsection (a) of this section shall be assessed a civil penalty of not more than $500.00. A person who violates subsection (b) of this section shall be assessed a civil penalty of not more than ~~$25.00~~ $50.00. A person adjudicated and assessed a civil penalty for an offense under subsection (a) of this section shall not be subject to a civil violation for the same actions under subsection (b) of this section.

Sec. 14. 23 V.S.A. § 1134a is amended to read:

§ 1134a. MOTOR VEHICLE PASSENGER; CONSUMPTION OR POSSESSION OF ALCOHOL OR MARIJUANA

(a) Except as provided in subsection (c) of this section, a passenger in a motor vehicle shall not consume alcoholic beverages or marijuana or possess any open container which contains alcoholic beverages or marijuana in the passenger area of any motor vehicle on a public highway. As used in this section, "alcoholic beverages" shall have the same meaning as "intoxicating liquor" as defined in section 1200 of this title.

(b) As used in this section, "passenger area" shall mean the area designed to seat the operator and passengers while the motor vehicle is in operation and any area that is readily accessible to the operator or passengers while in their seating positions, including the glove compartment, unless the glove compartment is locked. In a motor vehicle that is not equipped with a trunk, the term shall exclude the area behind the last upright seat or any area not normally occupied by the operator or passengers.

(c) A person, other than the operator, may possess an open container which contains alcoholic beverages or marijuana in the passenger area of a motor

vehicle designed, maintained, or used primarily for the transportation of persons for compensation or in the living quarters of a motor home or trailer coach.

(d) A person who violates this section shall be fined not more than $25.00.

Sec. 15. 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 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.

Sec. 16. MARIJUANA ADVISORY COMMISSION

(a) There is created a temporary Marijuana Advisory Commission for the purpose of providing guidance to the Administration and the General Assembly on issues relating to the national trend toward reclassifying marijuana at the state level, and the emergence of a regulated adult-use commercial market for marijuana within Vermont.

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

(1) two members of the public appointed by the Governor, one of whom shall have experience in public health;

(2) two members of the House of Representatives, appointed by the Speaker of the House;

(3) two members of the Senate, appointed by the Committee on Committees;

(4) the Attorney General or designee; and

(5) a representative of the Vermont League of Cities and Towns.

(c) Legislative members shall serve only while in office.

(d) The Governor may appoint new members of the public when a vacancy occurs.

(e)(1) In developing proposals for consideration by the Administration and the General Assembly, the Commission shall:

(A) prioritize the need for a solution that is consistent with Vermont values, culture, and scale;

(B) consult with other states and jurisdictions that have legalized marijuana, and monitor them regarding implementation of regulation, policies, and strategies that have been successful and problems that have arisen;

(C) recommend approaches for preventing, detecting, and penalizing impaired driving as it relates to marijuana use, drawing on the latest information in Vermont and other jurisdictions;

(D) identify effective educational, preventative, and treatment strategies for reducing marijuana use by youth and monitor the impact of legalization in other jurisdictions on youth;

(E) consider the fiscal impact of revenue issues arising from the emergence of an adult-use commercial market for marijuana, with particular attention paid to other jurisdictions' experiences and choices in establishing tax and fee structures;

(F) propose a comprehensive regulatory and revenue structure that establishes controlled access to marijuana in a manner that, when compared to the current illegal marijuana market, increases public safety and reduces harm to public health;

(G) weigh the various options for the appropriate existing or new governmental agency or department to administer and enforce a marijuana regulatory system;

(H) explore options for municipalities to regulate marijuana establishments within their jurisdictions;

(I) consider the issue of personal cultivation of a small number of marijuana plants and whether Vermont could permit home grow in a manner that would not create diversion or enforcement issues that hinder efforts to divert the marijuana economy from the illegal to the regulated market;

(J) study the opportunity for a cooperative agriculture business model and licensure and community supported agriculture;

(K) examine the issue of marijuana concentrates and edible marijuana products, and whether Vermont can allow and regulate their manufacture and sale safely and, if so, how;

(L) review the statutes and rules for the therapeutic marijuana program and dispensaries, and determine whether additional amendments are necessary to maintain patient access to marijuana and viability of the dispensaries; and

(M) any other issues the Commission finds important to the current policy discussions on marijuana.

(2) Any proposal shall take into consideration the shared State and federal concerns about marijuana reform and seek to provide better control of access and distribution of marijuana in a manner that prevents:

(A) distribution of marijuana to persons under 21 years of age;

(B) revenue from the sale of marijuana going to criminal enterprises;

(C) diversion of marijuana to states that do not permit possession of marijuana;

(D) State-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or activity;

(E) violence and the use of firearms in the cultivation and distribution of marijuana;

(F) drugged driving and the exacerbation of any other adverse public health consequences of marijuana use;

(G) growing of marijuana on public lands and the attendant public safety and environmental dangers posed by marijuana production on public lands; and

(H) possession or use of marijuana on federal property.

(f) The Commission shall report to the Governor and the General Assembly, as needed, but shall issue its final recommendations on or before December 15, 2016. The Commission shall cease to exist February 1, 2017.

(g) The Commission shall have the administrative, technical, and legal assistance of the Administration.

(h) The Administration shall call the first meeting of the Commission to occur on or before July 1, 2016. The Commission shall select a chair from among its members at the first meeting. A majority of the membership shall constitute a quorum.

(i) 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 2 V.S.A. § 406 for as many meetings as the Chair deems necessary. Other members of the

Commission 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.

Sec. 17. WORKFORCE STUDY COMMITTEE

(a) Creation. There is created a Workforce Study Committee to examine the potential impacts of alcohol and drug use on the workplace.

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

(1) the Secretary of Commerce and Community Development or designee;

(2) the Commissioner of Labor or designee;

(3) the Commissioner of Health or designee;

(4) one person representing the interests of employees appointed by the Governor; and

(5) one person representing the interests of employers appointed by the Governor.

(c) Powers and duties. The Committee shall study:

(1) whether Vermont's workers' compensation and unemployment insurance systems are adversely affected by alcohol and drug use and identify regulatory or legislative measures to mitigate any adverse impacts;

(2) the issue of alcohol and drugs in the workplace and determine whether Vermont's workplace drug testing laws should be amended to provide employers with broader authority to conduct drug testing, including by permitting drug testing based on a reasonable suspicion of drug use, or by authorizing employers to conduct postaccident, employerwide, or postrehabilitation follow-up testing of employees; and

(3) the impact of alcohol and drug use on workplace safety and identify regulatory or legislative measures to address adverse impacts and enhance workplace safety.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Commerce and Community Development, the Department of Labor, and the Department of Health.

(e) Report. On or before December 1, 2016, the Committee shall submit a written report with findings and recommendations to the House Committee on General, Housing and Military Affairs and the Senate Committee on Economic

Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Secretary of Commerce or designee shall call the first meeting of the Committee to occur on or before September 15, 2016.

(2) The Committee shall select a chair from among its members at the first meeting.

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

(4) The Committee shall cease to exist on December 31, 2016.

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

(a) This section, Secs. 1 (human trafficking), 2 (co-payment and reimbursement orders), 2a (expungement), 2b (sealing), 3 (listed crime definition), 4 (sex offender registry), 5 and 6 (innocence protection), 7 (marijuana criminal penalties), 8 (Justice Oversight Committee), 9 (marijuana youth education and prevention), 15 (impaired driving training for law enforcement), 16 (Marijuana Advisory Commission), and 17 (Workforce Study Committee) shall take effect on passage.

(b) Secs. 10 (marijuana criminal penalties),11(marijuana civil penalties), 12 (chemical extraction of marijuana), 13 (open container; operator), 14 (open container; passenger) shall take effect July 1, 2016.

Fourth: In Sec. 4, 13 V.S.A. § 5411a(a), by striking out the word "conviction" and inserting in lieu thereof the word sentencing

Proposal of amendment to House proposal of amendment to H. 858 to be offered by Senator Sears

Senator Sears moves that the Senate concur in the House proposal of amendment with further proposal of amendment by striking out Secs. 9 –18 in their entirety and inserting in lieu thereof the following:

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

Report of Committee of Conference

S. 10.

An act relating to the State DNA database.

To the Senate and House of Representatives:

The Committee of Conference, to which were referred the disagreeing votes of the two Houses upon Senate Bill, entitled:

S.10. An act relating to the State DNA Database

Respectfully report that they have met and considered the same and recommend that the House recede from its proposals of amendment, and that the bill be amended as follows:

In Sec. 1, 20 V.S.A. § 1932, by striking out subdivision (12) in its entirety and inserting in lieu thereof a new subdivision (12) to read as follows:

(12) "Designated crime" means any of the following offenses:

(A) a felony;

(B) 13 V.S.A. § 1042 (domestic assault);

(C) any crime for which a person is required to register as a sex offender pursuant to 13 V.S.A. chapter 167, subchapter 3 ~~of chapter 167 of Title 13~~;

(D) 13 V.S.A. § 1062 (stalking);

(E) 13 V.S.A. § 1025 (reckless endangerment);

(F) a violation of an abuse prevention order as defined in 13 V.S.A. § 1030, excluding violation of an abuse prevention order issued pursuant to 15 V.S.A. § 1104 (emergency relief) or 33 V.S.A. § 6936 (emergency relief);

(G) a misdemeanor violation of 13 V.S.A. chapter 28, relating to abuse, neglect, and exploitation of vulnerable adults;

(H) an attempt to commit any offense listed in this subdivision; or

~~(E)~~(I) any other offense, if, as part of a plea agreement in an action in which the original charge was a crime listed in this subdivision and probable cause was found by the court, there is a requirement that the defendant submit a DNA sample to the DNA data bank.

ALICE W. NITKA
JOSEPH C. BENNING
RICHARD W. SEARS

Committee on the part of the Senate

THOMAS B. BURDITT
MAXINE JO GRAD
WILLEM W. JEWETT

Committee on the part of the House

S. 114.

An act relating to the Open Meeting Law.

To the Senate and House of Representatives:

The Committee of Conference, to which were referred the disagreeing votes of the two Houses upon Senate Bill, entitled:

S.114. An act relating to the Open Meeting Law.

Respectfully reports that it has met and considered the same and recommends that the House recede from its Proposal of Amendment.

ANTHONY POLLINA
JOSEPH C. BENNING
BRIAN P. COLLAMORE
Committee on the part of the Senate
LINDA J. MARTIN
MAIDA F. TOWNSEND
ROBERT B. LACLAIR
Committee on the part of the House

S. 154.

An act relating to enhanced penalties for assaulting an employee of the Family Services Division of the Department for Children and Families and to criminal threatening.

To the Senate and House of Representatives:

The Committee of Conference, to which were referred the disagreeing votes of the two Houses upon Senate Bill, entitled:

S.154. An act relating to enhanced penalties for assaulting an employee of the Family Division of the Department for Children and Families and to criminal threatening.

Respectfully reports that it has met and considered the same and recommends that the Senate accede to the House's proposal of amendment and that the bill be further amended by adding a Sec. 6b to read:

Sec. 6b. 13 V.S.A. § 1702 is added to read:

§ 1702. CRIMINAL THREATENING

(a) A person shall not by words or conduct knowingly:

(1) threaten another person; and

(2) as a result of the threat, place the other person in reasonable apprehension of death or serious bodily injury.

(b) A person who violates subsection (a) of this section shall be imprisoned not more than one year or fined not more than $1,000.00, or both.

(c) A person who violates subsection (a) of this section with the intent to prevent another person from reporting to the Department for Children and Families the suspected abuse or neglect of a child shall be imprisoned not more than two years or fined not more than $1,000.00, or both.

(d) As used in this section:

(1) "Serious bodily injury" shall have the same meaning as in section 1021 of this title.

(2) "Threat" and "threaten" shall not include constitutionally protected activity.

(e) Any person charged under this section who is under 18 years of age shall be adjudicated as a juvenile delinquent.

(f) It shall be an affirmative defense to a charge under this section that the person did not have the ability to carry out the threat. The burden shall be on the defendant to prove the affirmative defense by a preponderance of the evidence.

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

An act relating to stalking, criminal threatening, and enhanced penalties for assault

JOHN F. CAMPBELL
RICHARD W. SEARS
MARGARET K FLORY

Committee on the part of the Senate

MAXINE JO GRAD
BARBARA RACHELSON
CHARLES W. CONQUEST

Committee on the part of the House

H. 84.

An act relating to Internet dating services.

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House Bill entitled:

An act relating to Internet dating services.

H. 84 An act relating to Internet dating services

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof:

* * * Consumer Litigation Funding * * *

Sec. A.1. 8 V.S.A. chapter 74 is added to read:

CHAPTER 74. CONSUMER LITIGATION FUNDING COMPANIES

§ 2251. DEFINITIONS

As used in this chapter:

(1) "Charges" means the amount a consumer owes to a company in addition to the funded amount and includes an administrative fee, origination fee, underwriting fee, processing fee, and any other fee regardless of how the fee is denominated, including amounts denominated as interest or rate.

(2) "Commissioner" means the Commissioner of Financial Regulation.

(3) "Consumer" means a natural person who is seeking or has obtained consumer litigation funding for a pending legal claim, provided:

(A) the claim is in Vermont; or

(B) the person resides or is domiciled in Vermont, or both.

(4) "Consumer litigation funding" or "funding" means a nonrecourse transaction in which a company purchases and a consumer assigns to the company a contingent right to receive an amount of the potential net proceeds of a settlement or judgment obtained from the consumer's legal claim. If no proceeds or net proceeds are obtained, the consumer is not required to repay the company the funded amount or charges.

(5) "Consumer litigation funding company," "litigation funding company," or "company" means a person that provides consumer litigation

funding to a consumer. The term does not include an immediate family member of the consumer, as defined in subdivision 2200(10) of this title.

(6) "Funded amount" means the amount of monies provided to, or on behalf of, the consumer pursuant to a litigation funding contract. The term excludes charges.

(7) "Health care facility" has the same meaning as in 18 V.S.A. § 9402(6).

(8) "Health care provider" has the same meaning as in 18 V.S.A. § 9402(7).

(9) "Litigation funding contract" or "contract" means a contract between a company and a consumer for the provision of consumer litigation funding.

(10)(A) "Net proceeds" means the amount recovered by a consumer as a result of a legal claim less costs associated with the legal claim or the underlying events giving rise to the legal claim, including:

(i) attorney's fees, attorney liens, litigation costs;

(ii) claims or liens for related medical services owned and asserted by the provider of such services;

(iii) claims or liens for reimbursement arising from third parties who have paid related medical expenses, including claims from insurers, employers with self-funded health care plans, and publicly financed health care plans; and

(iv) liens for workers' compensation benefits paid to the consumer.

(B) This definition of "net proceeds" shall in no way affect the priority of claims or liens other than those for payments to the consumer litigation funding company under a consumer litigation funding contract subject to this chapter.

§ 2252. REGISTRATION; FEE; FINANCIAL STABILITY

(a) A company shall not engage in the business of consumer litigation funding without first filing a registration with the Commissioner on a form prescribed by the Commissioner and submitting a registration fee and proof of financial stability, as required by this section.

(b) A company shall submit a $600.00 fee at the time of registration and at the time of each renewal. Registrations shall be renewed every three years.

(c) A company shall file with the Commissioner evidence of its financial stability which shall include proof of a surety bond or irrevocable letter of

credit issued and confirmed by a financial institution authorized by law to transact business in Vermont that is equal to double the amount of the company's largest funded amount in Vermont in the prior three calendar years or $50,000.00, whichever is greater.

§ 2253. CONTRACTS; DISCLOSURES AND REQUIREMENTS

(a) A contract shall be written in a clear and coherent manner using words with common, everyday meanings to enable the average consumer who makes a reasonable effort under ordinary circumstances to read and understand the terms of the contract without having to obtain the assistance of a professional.

(b) Each contract shall include consumer disclosures on the front page. The consumer disclosures shall be in a form prescribed by the Commissioner and shall include:

(1) a description of possible alternatives to a litigation funding contract, including secured or unsecured personal loans, and life insurance policies;

(2) notification that some or all of the funded amount may be taxable;

(3) a description of the consumer's right of rescission;

(4) the total funded amount provided to the consumer under the contract;

(5) an itemization of charges;

(6) the annual percentage rate of return;

(7) the total amount due from the consumer, including charges, if repayment is made any time after the funding contract is executed;

(8) a statement that there are no fees or charges to be paid by the consumer other than what is disclosed on the disclosure form;

(9) in the event the consumer seeks more than one litigation funding contract, a disclosure providing the cumulative amount due from the consumer for all transactions, including charges under all contracts, if repayment is made any time after the contracts are executed;

(10) a statement that the company has no right to make any decisions regarding the conduct of the legal claim or any settlement or resolution thereof and that the right to make such decisions remains solely with the consumer and his or her attorney;

(11) a statement that, if there is no recovery of any money from the consumer's legal claim, the consumer shall owe nothing to the company and that, if the net proceeds of the claim are insufficient to repay the consumer's indebtedness to the company, then the consumer shall owe the company no money in excess of the net proceeds; and

(12) any other statements or disclosures deemed necessary or appropriate by the Commissioner.

(c) Each contract shall include the following provisions:

(1) Definitions of the terms "consumer," "consumer litigation funding," and "consumer litigation funding company."

(2) A right of rescission, allowing the consumer to cancel the contract without penalty or further obligation if, within five business days following the execution of the contract or the consumer's receipt of any portion of the funded amount, the consumer gives notice of the rescission to the company and returns any funds provided to the consumer by the company.

(3) A provision specifying that, in the event of litigation involving the contract and at the election of the consumer, venue shall lie in the Vermont Superior Court for the county where the consumer resides.

(4) An acknowledgment that the consumer is represented by an attorney in the legal claim and has had an opportunity to discuss the contract with his or her attorney.

§ 2254. PROHIBITED ACTS

(a) A consumer litigation funding company shall not engage in any of the following conduct or practices:

(1) Pay or offer to pay commissions, referral fees, or any other form of consideration to any attorney, law firm, health care provider, health care facility, or an employee of a law firm, health care provider, or health care facility for referring a consumer to the company.

(2) Accept any commissions, referral fees, or any other form of consideration from any attorney, law firm, health care provider, health care facility, or an employee of a law firm, health care provider, or health care facility.

(3) Advertise false or misleading information regarding its products or services.

(4) Receive any right to nor make any decisions with respect to the conduct of the consumer's legal claim or any settlement or resolution. The right to make such decisions shall remain solely with the consumer and his or her attorney.

(5) Knowingly pay or offer to pay for court costs, filing fees, or attorney's fees either during or after the resolution of the legal claim.

(6) Refer a consumer to a specific attorney, law firm, health care provider, or health care facility.

(7) Fail to provide promptly copies of contract documents to the consumer or to the consumer's attorney.

(8) Obtain a waiver of any remedy the consumer might otherwise have against the company.

(9) Provide legal advice to the consumer regarding the funding or the underlying legal claim.

(10) Assign a contract in whole or in part to a third party. Provided, however, if the company retains responsibility for collecting payment, administering, and otherwise enforcing the consumer litigation funding contract, the prohibition in this subdivision (10) shall not apply to an assignment:

(A) to a wholly-owned subsidiary of the company;

(B) to an affiliate of the company that is under common control with the company; or

(C) granting a security interest under Article 9 of the Uniform Commercial Code or as otherwise permitted by law.

(11) Report a consumer to a credit reporting agency if insufficient funds remain from the net proceeds to repay the company.

(12) Require binding arbitration in the event of a dispute between the consumer and the company. A consumer has the right to a trial in the event of a contractual dispute.

(b) An attorney or law firm retained by a consumer shall not have a financial interest in a company offering litigation funding to the consumer and shall not receive a referral fee or other consideration from such company, its employees, or its affiliates.

§ 2255. EFFECT OF COMMUNICATION ON PRIVILEGES

A communication between a consumer's attorney and the company shall not be discoverable or limit, waive, or abrogate the scope or nature of any statutory or common-law privilege, including the work-product doctrine and the attorney-client privilege.

§ 2256. EXAMINATIONS; CHARGES

For the purpose of protecting consumer interests and determining a company's financial stability and compliance with the requirements of this chapter, the Commissioner may conduct an examination of a company engaged

in the business of consumer litigation funding. The company shall reimburse the Department of Financial Regulation all reasonable costs and expenses of such examination. In unusual circumstances and in the interests of justice, the Commissioner may waive reimbursement for the costs and expenses of an examination under this section.

§ 2257. NATIONWIDE LICENSING SYSTEM; INFORMATION SHARING; CONFIDENTIALITY

(a) In furtherance of the Commissioner's duties under this chapter, the Commissioner may participate in the Nationwide Mortgage Licensing System and Registry and may take such action regarding participation in the Registry as the Commissioner deems necessary to carry out the purposes of this section, including:

(1) issue rules or orders, or establish procedures, to further participation in the Registry;

(2) facilitate and participate in the establishment and implementation of the Registry;

(3) establish relationships or contracts with the Registry or other entities designated by the Registry;

(4) authorize the Registry to collect and maintain records and to collect and process any fees associated with licensure or registration on behalf of the Commissioner;

(5) require persons engaged in activities that require registration under this chapter to use the Registry for applications, renewals, amendments, surrenders, and such other activities as the Commissioner may require and to pay through the Registry all fees provided for under this chapter;

(6) authorize the Registry to collect fingerprints on behalf of the Commissioner in order to receive or conduct criminal history background checks, and, in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of this subsection, the Commissioner may use the Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any other governmental agency; and

(7) in order to reduce the points of contact which the Commissioner may have to maintain for purposes of this chapter, use the Registry as a channeling agent for requesting and distributing information to and from any source so directed by the Commissioner.

(b) The Commissioner may require persons engaged in activities that require registration under this chapter to submit fingerprints, and the

Commissioner may use the services of the Registry to process the fingerprints and to submit the fingerprints to the Federal Bureau of Investigation, the Vermont State Police, or any equivalent state or federal law enforcement agency for the purpose of conducting a criminal history background check. The company shall pay the cost of such criminal history background check, including any charges imposed by the Registry.

(c) Persons engaged in activities that require registration pursuant to this chapter shall pay all applicable charges to use the Registry, including such processing charges as the administrator of the Registry shall establish, in addition to the fees required under this chapter.

(d) The Registry is not intended to and does not replace or affect the Commissioner's authority to grant, deny, suspend, revoke, or refuse to renew registrations.

(e) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing:

(1) The privacy or confidentiality of any information or material provided to the Registry and any privilege arising under federal or state law (including the rules of any federal or state court) with respect to such information or material shall continue to apply to such information or material after the information or material has been disclosed to the Registry. Such information and material may be shared with all state and federal regulatory officials with oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or state law.

(2) To carry out the purpose of this section, the Commissioner is authorized to enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies.

(3) Information or material that is subject to privilege or confidentiality under subdivision (1) of this subsection shall not be subject to:

(A) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(B) subpoena or discovery or admission into evidence in any private civil action or administrative process unless with respect to any privilege held by the Registry with respect to such information or material the person to whom such information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

(4) This subsection shall not apply with respect to information or material relating to employment history and publicly adjudicated disciplinary and enforcement actions that are included in the Registry for access by the public.

(f) In this section, "Nationwide Mortgage Licensing System and Registry" or "the Registry" means a licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators as defined in 12 U.S.C. § 5102(6), or its successor in interest, or any alternative or replacement licensing system and registry designated by the Commissioner.

§ 2258. RULES

The Commissioner may adopt rules he or she deems necessary for the proper conduct of business and enforcement of this chapter.

§ 2259. PENALTIES; ENFORCEMENT

(a) After notice and opportunity for hearing in accordance with the Administrative Procedures Act, 3 V.S.A. chapter 25, the Commissioner may take action to enforce the provisions of this chapter and may:

(1) revoke or suspend a company's registration;

(2) order a company to cease and desist from further consumer litigation funding;

(3) impose a penalty of not more than $1,000.00 for each violation or $10,000.00 for each violation the Commissioner finds to be willful; and

(4) order the company to make restitution to consumers.

(b) The powers vested in the Commissioner by this chapter shall be in addition to any other powers of the Commissioner to enforce any penalties, fines, or forfeitures authorized by law.

(c) A company's failure to comply with the requirements of this chapter shall constitute an unfair or deceptive act in commerce enforceable under 9 V.S.A. chapter 63, the Consumer Protection Act.

(d) The powers vested in the Commissioner by this chapter shall be in addition to any other powers or rights of consumers or the Attorney General or others under any other applicable law or rule, including the Vermont Consumer Protection Act and any applicable rules adopted thereunder, provided the Commissioner's determinations concerning the interpretation and administration of the provisions of this chapter and rules adopted thereunder shall carry a presumption of validity.

§ 2260. ANNUAL REPORTS

(a) Annually, on or before April 1, each company registered under this chapter shall file a report with the Commissioner under oath and in the form and manner prescribed by the Commissioner. The report shall include any information the Commissioner requires concerning the company's business and operations during the preceding calendar year within Vermont and, in addition, shall include:

(1) the number of contracts entered into;

(2) the dollar value of funded amounts to consumers;

(3) the dollar value of charges under each contract, itemized and including the annual rate of return;

(4) the dollar amount and number of litigation funding transactions in which the realization to the company was as contracted; and

(5) the dollar amount and number of litigation funding transactions in which the realization to the company was less than contracted.

(b) To assist the general public with more fully understanding the nature of consumer litigation funding in Vermont, the Commissioner shall summarize and analyze relevant data submitted under this section and publish the summary and analysis on a web page maintained by the Department of Financial Regulation, as well as on a web page maintained by the Office of the Attorney General.

(c) Annually, beginning on or before October 1, 2017, the Commissioner and Attorney General shall report jointly to the General Assembly on the status of consumer litigation funding in Vermont and make any recommendations they deem necessary to improve the regulatory framework of consumer litigation funding, including a recommendation on whether Vermont should limit charges imposed under a consumer litigation funding contract.

Sec. A.2. CONSUMER LITIGATION FUNDING; INITIAL REPORT

(a) In addition to the reporting requirements in 8 V.S.A. § 2260, on or before January 10, 2017 each company registered under this chapter shall file a report with the Commissioner under oath and in the form and manner prescribed by the Commissioner. The report shall include any information the Commissioner requires concerning the company's business and operations during the preceding calendar year within Vermont and, in addition, shall include:

(1) the number of contracts entered into;

(2) the dollar value of funded amounts to consumers;

(3) the dollar value of charges under each contract, itemized and including the annual rate of return;

(4) the dollar amount and number of litigation funding transactions in which the realization to the company was as contracted; and

(5) the dollar amount and number of litigation funding transactions in which the realization to the company was less than contracted.

(b) To assist the general public with more fully understanding the nature of consumer litigation funding in Vermont, the Commissioner shall summarize and analyze relevant data submitted under this section and publish the summary and analysis on a web page maintained by the Department of Financial Regulation, as well as on a web page maintained by the Office of the Attorney General.

(c) In addition to the reporting requirements in 8 V.S.A. § 2260, on or before January 31, 2017, the Commissioner and Attorney General shall report jointly to the General Assembly on the status of consumer litigation funding in Vermont and make any recommendations they deem necessary to improve the regulatory framework of consumer litigation funding, including a recommendation on whether Vermont should limit charges imposed under a consumer litigation funding contract and, if so, a specific recommendation on what that limit should be.

* * * Structured Settlement Agreements * * *

Sec. B.1. 9 V.S.A. § 2480ff(b) is amended to read:

(b) Not less than 20 days prior to the scheduled hearing on any application for approval of a transfer of structured settlement payment rights under section 2480dd of this title, the transferee shall file with the Court and serve on all interested parties a notice of the proposed transfer and the application for its authorization, including with such notice:

* * *

(7) a statement setting forth whether, to the best of the transferee's knowledge after making a reasonable inquiry to the payee, the structured settlement obligor, and the annuity issuer, there have been any previous transfers or applications for transfer of any structured settlement payment rights of the payee and giving details of all such transfers or applications for transfer;

(8) to the best of the transferee's knowledge after making reasonable inquiry to the payee, the structured settlement obligor, and the annuity issuer, a description of the remaining payments owed to the payee under the structured

settlement if the court approves the proposed transfer, including the amount and dates or date ranges of the payments owed, provided that:

(A) the description may be filed under seal; and

(B) if the transferee's knowledge concerning the remaining payments changes after the transferee submits a notice of the proposed transfer, the transferee may provide updated information to the court at the hearing;

~~(8)~~(9) if available to the transferee after making a good faith request of the payee, the structured settlement obligor and the annuity issuer, the following documents, which shall be filed under seal:

(A) a copy of the annuity contract;

(B) a copy of any qualified assignment agreement; and

(C) a copy of the underlying structured settlement agreement;

~~(9)~~(10) either a certification from an independent professional advisor establishing that the advisor has given advice to the payee on the financial advisability of the transfer and the other financial options available to the payee or a written request that the Court determine that such advice is unnecessary pursuant to subdivision 2480dd(a)(2) of this title; and

~~(10)~~(11) notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed, which shall be not less than 15 days after service of the transferee's notice, in order to be considered by the court.

* * * Business Registration; Enforcement * * *

Sec. C.1. PURPOSE

(a) The purpose of 11 V.S.A. § 1637, as added in Sec. C. 2 of this act, is to protect consumers by ensuring that they have adequate public notice in the records of the Secretary of State when a person is no longer allowed to conduct business in this State.

(b) The purpose of Secs. C.3–C.14 is to standardize among the statutes governing business organizations authorized to conduct business in this State:

(1) the duty of a person to register with the Secretary of State; and

(2) the enforcement and penalties for failure register.

Sec. C.2. 11 V.S.A. § 1637 is added to read:

§ 1637. AUTHORITY TO TERMINATE AND AMEND REGISTRATION

(a) The Secretary of State shall have the authority to:

(1) terminate the registration of a person who, pursuant to a final court order or an assurance of discontinuance, is not authorized to conduct business in this State; and

(2) amend his or her records to reflect the termination of a registration pursuant to subdivision (1) of this section.

(b)(1) If the Secretary of State terminates the registration of a person pursuant to this section, the person appoints the Secretary as his or her agent for service of process in any proceeding based on a cause of action that arose during the time the person was authorized to transact, or was transacting without authorization, business in this State.

(2) Upon receipt of process, the Secretary of State shall deliver by registered mail a copy of the process to the secretary of the terminated person at its principal office shown in its most recent annual report or in any subsequent communication received from the person stating the current mailing address of its principal office, or, if none is on file, in its application for registration.

(c)(1) If a court or other person with sufficient legal authority reinstates the ability of a terminated person to conduct business in this State, the terminated person may file with the Secretary of State evidence of the reinstated authority and pay to the Secretary a fee of $25.00 for each year the person is delinquent.

(2) Upon receipt of a filing and payment pursuant to subdivision (1) of this subsection, the Secretary shall cancel the termination and prepare a certificate of reinstatement, file the original of the certificate, and serve a copy on the person.

Sec. C.3. 11 V.S.A. § 1626 is amended to read:

§ 1626. FAILURE TO REGISTER; ENFORCING COMPLIANCE

~~Upon the complaint of the secretary of state, a person, copartnership, association, limited liability company or corporation carrying on business in this state contrary to this chapter may be enjoined therefrom by a superior court and fined not more than $100.00.~~

(a) A person who is not registered with the Secretary of State as required under this chapter and any successor to the person or assignee of a cause of action arising out of the business of the person may not maintain an action or proceeding or raise a counterclaim, crossclaim, or affirmative defense in this State until the person, successor, or assignee registers with the Secretary.

(b) The failure of a person to register as required under this chapter does not impair the validity of a contract or act of the person or preclude it from defending an action or proceeding in this State.

(c) An individual does not waive a limitation on his or her personal liability afforded by other law solely by transacting business in this State without registering with the Secretary of State as required under this chapter.

(d) If a person transacts business in this State without registering with the Secretary of State as required under this chapter, the Secretary is its agent for service of process with respect to a right of action arising out of the transaction of business in this State.

(e) A person that transacts business in this State without registering with the Secretary of State as required under this chapter shall be liable to the State for:

(1) a civil penalty of $50.00 for each day, not to exceed a total of $10,000.00 for each year, it transacts business in this State without a registration;

(2) an amount equal to the fees due under this chapter during the period it transacted business in this State without a registration; and

(3) other penalties imposed by law.

(f) The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in subsection (e) of this section and to restrain a person from transacting business in this State in violation of this chapter.

Sec. C.4. 11 V.S.A. § 3303 is amended to read:

§ 3303. EFFECT OF FAILURE TO QUALIFY

(a)(1) A foreign limited liability partnership transacting business in this ~~state~~ State may not maintain an action or proceeding or raise a counterclaim, crossclaim, or affirmative defense in this ~~state~~ State unless it has in effect a statement of foreign qualification.

(2) The successor to a foreign limited liability partnership that transacted business in this State without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense based on that cause of action in any court in this State until the foreign limited liability partnership or its successor or assignee obtains a certificate of authority.

(b) The failure of a foreign limited liability partnership to have in effect a statement of foreign qualification does not impair the validity of a contract or act of the foreign limited liability partnership or preclude it from defending an action or proceeding in this ~~state~~ State.

(c) A limitation on personal liability of a partner is not waived solely by transacting business in this ~~state~~ State without a statement of foreign qualification.

(d) If a foreign limited liability partnership transacts business in this ~~state~~ State without a statement of foreign qualification, the ~~secretary of state~~ Secretary of State is its agent for service of process with respect to a right of action arising out of the transaction of business in this ~~state~~ State.

(e) A foreign limited liability partnership that transacts business in this State without a statement of foreign qualification shall be liable to the State for:

(1) a civil penalty of $50.00 for each day, not to exceed a total of $10,000.00 for each year, it transacts business in this State without a statement of foreign qualification;

(2) an amount equal to the fees due under this chapter during the period it transacted business in this State without a statement of foreign qualification; and

(3) other penalties imposed by law.

Sec. C.5. 11 V.S.A. § 3305 is amended to read:

§ 3305. ACTION BY ATTORNEY GENERAL

The ~~attorney general~~ Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in section 3303 of this title and to restrain a foreign limited liability partnership from transacting business in this ~~state~~ State in violation of this subchapter.

Sec. C.6. 11 V.S.A. § 3487 is amended to read:

§ 3487. TRANSACTION OF BUSINESS WITHOUT REGISTRATION

(a)(1) A foreign limited partnership transacting business in this ~~state~~ State may not maintain an action or proceeding or raise a counterclaim, crossclaim, or affirmative defense in this ~~state~~ State until it has registered in this ~~state~~ State.

(2) The successor to a foreign limited partnership that transacted business in this State without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense based on that cause of action in any court in this State until the foreign limited partnership or its successor or assignee obtains a certificate of authority.

(b) The failure of a foreign limited partnership to register in this ~~state~~ State does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit, or proceeding in any court of this ~~state~~ State.

(c) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of having transacted business in this ~~state~~ State without registration.

(d) A foreign limited partnership, by transacting business in this ~~state~~ State without registration, appoints the ~~secretary of state~~ Secretary of State as its agent for service of process with respect to claims for relief and causes of action arising out of the transaction of business in this ~~state~~ State.

(e) A foreign limited partnership that transacts business in this State without a registration shall be liable to the State for:

(1) a civil penalty of $50.00 for each day, not to exceed a total of $10,000.00 for each year, it transacts business in this State without a registration;

(2) an amount equal to the fees due under this chapter during the period it transacted business in this State without a registration; and

(3) other penalties imposed by law.

Sec. C.7. 11 V.S.A. § 3488 is amended to read:

§ 3488. ACTION BY ATTORNEY GENERAL

The ~~attorney general~~ Attorney General may bring an action in the Civil Division of the Superior Court to collect the penalties imposed under section 3487 of this title and to restrain a foreign limited partnership from transacting business in this ~~state~~ State in violation of this subchapter.

Sec. C.8. 11 V.S.A. § 4119 is amended to read:

§ 4119. EFFECT OF FAILURE TO OBTAIN CERTIFICATE OF AUTHORITY

(a)(1) A foreign limited liability company transacting business in this State may not maintain a proceeding or raise a counterclaim, cross-claim, or affirmative defense in any court in this State until it obtains a certificate of authority to transact business in this State.

(2) The successor to a foreign limited liability company that transacted business in this State without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense based on that cause of

action in any court in this State until the foreign limited liability company or its successor or assignee obtains a certificate of authority.

(b) The failure of a foreign limited liability company to have a certificate of authority to transact business in this State does not impair the validity of a contract or act of the company or prevent the foreign limited liability company from defending an action or proceeding in this State.

(c) A member or manager of a foreign limited liability company is not liable for the debts, obligations, or other liabilities of the company solely because the company transacted business in this State without a certificate of authority.

(d) If a foreign limited liability company transacts business in this State without a certificate of authority, it appoints the Secretary of State as its agent for service of process for claims arising out of the transaction of business in this State.

(e) A foreign limited liability company that transacts business in this State without a certificate of authority shall be liable to the State for:

(1) a civil penalty of $50.00 for each day, not to exceed a total of $10,000.00 for each year, it transacts business in this State without a certificate of authority;

(2) an amount equal to the fees due under this chapter during the period it transacted business in this State without a certificate of authority; and

(3) other penalties imposed by law.

Sec. C.9. 11 V.S.A. § 4120 is amended to read:

§ 4120. ACTION BY ATTORNEY GENERAL

The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed under section 4119 of this title and to restrain a foreign limited liability company from transacting business in this State in violation of this chapter.

Sec. C.10. 11A V.S.A. § 15.02 is amended to read:

§ 15.02. CONSEQUENCES OF TRANSACTING BUSINESS WITHOUT AUTHORITY

(a) A foreign corporation transacting business in this ~~state~~ State without a certificate of authority may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense in any court in this ~~state~~ State until it obtains a certificate of authority.

(b) The successor to a foreign corporation that transacted business in this ~~state~~ State without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense based on that cause of action in any court in this ~~state~~ State until the foreign corporation or its successor or assignee obtains a certificate of authority.

(c) A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until it determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.

(d) A foreign corporation that transacts business in this State without a certificate of authority is liable to the ~~state~~ State for:

(1) a civil penalty of $50.00 for each day, ~~but~~ not to exceed a total of ~~$1,000.00~~ $10,000.00 for each year, it transacts business in this ~~state~~ State without a certificate of authority;

(2) an amount equal to ~~all~~ the fees ~~that would have been imposed~~ due under this ~~chapter~~ title during the ~~years, or parts thereof,~~ period it transacted business in this ~~state~~ State without a certificate of authority; and

(3) ~~such~~ other penalties ~~as are~~ imposed by law. ~~The attorney general may collect all penalties due under this subsection.~~

(e) ~~Upon petition of the attorney general~~ The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in this section and to restrain a foreign corporation not in compliance with this chapter~~, and its officers and agents, may be enjoined by the courts of this state~~ from doing business within this ~~state~~ State.

(f) Notwithstanding subsections (a) and (b) of this section, the failure of a foreign corporation to obtain a certificate of authority does not impair the validity of its corporate acts, to the extent they are otherwise in compliance with law, or prevent it from defending any proceeding in this ~~state~~ State.

Sec. C.11. 11B V.S.A. § 15.02 is amended to read:

§ 15.02. CONSEQUENCES OF TRANSACTING BUSINESS WITHOUT AUTHORITY

(a) A foreign corporation transacting business in this ~~state~~ State without a certificate of authority may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense in any court in this ~~state~~ State until it obtains a certificate of authority.

(b) The successor to a foreign corporation that transacted business in this ~~state~~ State without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense based on that cause of action in any court in this ~~state~~ State until the foreign corporation or its successor or assignee obtains a certificate of authority.

(c) A court may stay a proceeding commenced by a foreign corporation, its successor, or assignee until it determines whether the foreign corporation or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the foreign corporation or its successor obtains the certificate.

(d) ~~A foreign corporation is liable for a civil penalty of $50.00 for each day, but not to exceed a total of $1,000.00 for each year, it transacts business in this state without a certificate of authority, an amount equal to all fees that would have been imposed under this chapter during the years, or parts thereof, it transacted business in this state without a certificate of authority, and such other penalties as are imposed by law. The attorney general may collect all penalties due under this subsection.~~ A foreign corporation that transacts business in this State without a certificate of authority is liable to the State for:

(1) a civil penalty of $50.00 for each day, not to exceed a total of $10,000.00 for each year, it transacts business in this State without a certificate of authority;

(2) an amount equal to the fees due under this title during the period it transacted business in this State without a certificate of authority; and

(3) other penalties imposed by law.

(e) The Attorney General may file an action in the Civil Division of Superior Court to collect the penalties due under this subsection and to restrain a foreign corporation not in compliance with this chapter from doing business within this State.

(f) Notwithstanding subsections (a) and (b) of this section, the failure of a foreign corporation to obtain a certificate of authority does not impair the validity of its corporate acts or prevent it from defending any proceeding in this ~~state~~ State.

Sec. C.12. 11C V.S.A. § 1402 is amended to read:

§ 1402. APPLICATION FOR CERTIFICATE OF AUTHORITY

(a) A foreign enterprise may apply for a certificate of authority by delivering an application to the Secretary of State for filing. The application shall state:

(1) the name of the foreign enterprise and, if the name does not comply with section 111 of this title, an alternative name adopted pursuant to section 1405 of this title;

(2) the name of the state or other jurisdiction under whose law the foreign enterprise is organized;

(3) the street address and, if different, mailing address of the principal office and, if the law of the jurisdiction under which the foreign enterprise is organized requires the foreign enterprise to maintain another office in that jurisdiction, the street address and, if different, mailing address of the required office;

(4) the street address and, if different, mailing address of the foreign enterprise's designated office in this State, and the name of the foreign enterprise's agent for service of process at the designated office; and

(5) the name, street address and, if different, mailing address of each of the foreign enterprise's current directors and officers.

(b) A foreign enterprise shall deliver with a completed application under subsection (a) of this section a certificate of good standing or existence or a similar record signed by the Secretary of State or other official having custody of the foreign enterprise's publicly filed records in the state or other jurisdiction under whose law the foreign enterprise is organized.

(c) A foreign enterprise may not transact business in this State without a certificate of authority.

Sec. C.13. 11C V.S.A. § 1407 is amended to read:

§ 1407. CANCELLATION OF CERTIFICATE OF AUTHORITY; EFFECT OF FAILURE TO HAVE CERTIFICATE

(a) To cancel its certificate of authority, a foreign enterprise shall deliver to the Secretary of State for filing a notice of cancellation. The certificate is canceled when the notice becomes effective under section 203 of this title.

(b)(1) A foreign enterprise transacting business in this State may not maintain an action or proceeding or raise a counterclaim, crossclaim, or affirmative defense in this State unless it has a certificate of authority.

(2) The successor to a foreign enterprise that transacted business in this State without a certificate of authority and the assignee of a cause of action arising out of that business may not maintain a proceeding or raise a counterclaim, crossclaim, or affirmative defense based on that cause of action in any court in this State until the foreign enterprise or its successor or assignee obtains a certificate of authority.

(c) The failure of a foreign enterprise to have a certificate of authority does not impair the validity of a contract or act of the foreign enterprise or prevent the foreign enterprise from defending an action or proceeding in this State.

(d) A member of a foreign enterprise is not liable for the obligations of the foreign enterprise solely by reason of the foreign enterprise's having transacted business in this State without a certificate of authority.

(e) If a foreign enterprise transacts business in this State without a certificate of authority or cancels its certificate, it appoints the Secretary of State as its agent for service of process for an action arising out of the transaction of business in this State.

(f) A foreign enterprise that transacts business in this State without a certificate of authority is liable to the State for:

(1) a civil penalty of $50.00 for each day, not to exceed a total of $10,000.00 for each year, it transacts business in this State without a certificate of authority;

(2) an amount equal to the fees due under this title during the period it transacted business in this State without a certificate of authority; and

(3) other penalties imposed by law.

Sec. C.14. 11C V.S.A. § 1408 is amended to read:

§ 1408. ACTION BY ATTORNEY GENERAL

The Attorney General may maintain an action in the Civil Division of the Superior Court to collect the penalties imposed in section 1407 of this title and to restrain a foreign enterprise from transacting business in this State in violation of this ~~article~~ chapter.

* * * Anti-Trust Penalties * * *

Sec. D.1. 9 V.S.A. § 2458 is amended to read:

§ 2458. RESTRAINING PROHIBITED ACTS

* * *

(b) In addition to the foregoing, the Attorney General or a State's Attorney may request and the court is authorized to render any other temporary or permanent relief, or both, as may be in the public interest including:

(1) the imposition of a civil penalty of not more than $10,000.00 for each ~~violation~~ unfair or deceptive act or practice in commerce, and of not more than $100,000.00 for an individual or $1,000,000.00 for any other person for each unfair method of competition in commerce;

* * *

* * * Discount Membership Programs * * *

Sec. E.1. 9 V.S.A. chapter 63, subchapter 1D is amended to read:

Subchapter 1D. Third-Party Discount Membership Programs

§ 2470aa. DEFINITIONS

~~In~~ As used in this subchapter:

(1) "Billing information" means any data that enables a seller of a third-party discount membership program to access a consumer's credit or debit card, bank, or other account, but does not include the consumer's name, e-mail address, telephone number, or mailing address. For credit card and debit card accounts, billing information includes the full account number, card type, and expiration date, and, if necessary, the security code. For accounts at a financial institution, "billing information" includes the full account number and routing number, and, if necessary, the name of the financial institution holding the account.

(2) A "third-party discount membership program" is a program that entitles consumers to receive discounts, rebates, rewards, or similar incentives on the purchase of goods or services or both, in whole or in part, from any third party.

§ 2470bb. APPLICABILITY

(a) A third-party discount membership program is a good or service within the meaning of subsection 2451a(b) of this chapter.

(b) This subchapter applies only to persons who are regularly and primarily engaged in trade or commerce in this State in connection with offering or selling third-party discount membership programs.

(c) This subchapter shall not apply to an electronic payment system, as defined in section 2480o of this title, or to a financial institution, as defined in 8 V.S.A. § 11101(32).

§ 2470cc. REQUIRED DISCLOSURES; CONSENT

(a) No person shall charge or attempt to charge a consumer for a third-party discount membership program, or to renew a third-party discount membership program beyond the term expressly agreed to by the consumer or the term permitted under section 2470ff of this title, whichever is shorter, unless:

(1) ~~Before~~ before obtaining the consumer's billing information, the person has clearly and conspicuously disclosed to the consumer all material terms of the transaction, including:

(A) a description of the types of goods and services on which a discount is available.;

(B) the name of the third-party discount membership program, and the name and address of the seller of the program., and a telephone number, e-mail address, or other contact information the consumer may use to contact the seller with questions concerning the operation of the program;

(C) the amount, or a good faith estimate, of the typical discount on each category of goods and services.;

(D) the cost of the program, including the amount of any periodic charges, how often such charges are imposed, and the method of payment.;

(E) the right to cancel and to terminate the program, which shall be no more restrictive than as required by section 2470ee of this subchapter, and a toll-free telephone number and e-mail address that can be used to cancel the membership.;

(F) the maximum length of membership, as described in section 2470ff of this subchapter.;

(G) in the event that the program is offered on the Internet through a link or referral from another business's website, the fact that the seller is not affiliated with that business.; and

(H) the fact that periodic notices of the program billings will be e-mailed or mailed to the consumer, as the case may be, consistent with section 2470dd of this title; and

(2) The the person has received express informed consent for the charge from the consumer whose credit or debit card, bank, or other account will be charged, by:

(A) obtaining from the consumer:

(i) the consumer's billing information; and

(ii) the consumer's name and address and a means to contact the consumer; and

(B) requiring the consumer to perform an additional affirmative action, such as clicking on an online confirmation button, checking an online box that indicates the consumer's consent to be charged the amount disclosed, or expressly giving consent over the telephone.

(b) A person who sells third-party discount membership programs shall retain evidence of a consumer's express informed consent for at least three years after the consent is given.

(c) A person who sells a third-party discount membership program shall provide to a consumer on the receipt for the underlying good or service:

(1) confirmation that the consumer has signed up for a discount membership program;

(2) the price the consumer will be charged for the program;

(3) the date on which the consumer will first be charged for the program;

(4) the frequency of charges for the program; and

(5) information concerning the consumer's right to cancel the program and a toll-free telephone number, address, and e-mail address a consumer may use to cancel the program.

§ 2470dd. PERIODIC NOTICES

(a) A person who periodically charges a consumer for a third-party discount membership program shall send the consumer a notice of the charge no less frequently than every three months from the date of initial enrollment that clearly and conspicuously discloses:

(1) a description of the program;

(2) the name of the third-party discount membership program and the name and address of the seller of the program;

(3) the cost of the program, including the amount of any periodic charges, how often such charges are imposed, and the method of payment;

(4) the right to cancel and to terminate the program, which shall be no more restrictive than as required by section 2470ee of this subchapter, and a toll-free number and e-mail address that can be used to cancel the membership; and

(5) the maximum length of membership, as described in section 2470ff of this subchapter.

(b) The notice specified in subsection (a) of this section:

(1) ~~Shall~~ shall be sent:

(A) ~~To~~ to the consumer's last known e-mail address, if the consumer enrolled in the third-party discount membership program online or by e-mail, with the subject line, "IMPORTANT INFORMATION ABOUT YOUR DISCOUNT PROGRAM BILLING," or substantially similar words, provided that the sender takes reasonable steps to verify that the e-mail has been opened; or

(B) ~~Otherwise~~ otherwise by first-class mail to the consumer's last known mailing address, with the heading on the enclosure and outside envelope, "IMPORTANT INFORMATION ABOUT YOUR DISCOUNT PROGRAM BILLING," or substantially similar words; and

(2) ~~Shall~~ shall not include any solicitation or advertising.

§ 2470ee. CANCELLATION AND TERMINATION

(a) In addition to any other right to revoke an offer, a consumer may cancel the purchase of a third-party discount membership program until midnight on the 30th day after the date the consumer has given express informed consent to be charged for the program. If the consumer cancels within the 30-day period, the seller of the third-party discount membership program shall, within 10 days of receiving the notice of cancellation, provide a full refund to the consumer.

(b)(1) Notice of cancellation shall be deemed given when deposited in a mailbox properly addressed and postage prepaid or when e-mailed to the e-mail address of the seller of the third-party discount membership program.

(2) A consumer may cancel a third-party discount membership program verbally by contacting the seller at a toll-free telephone number that the seller provides for that purpose.

(c) In addition to the right to cancel described in this subchapter, a consumer may terminate a third-party discount membership program at any time by providing notice to the seller by one of the methods described in this section. In that case, the consumer shall not be obligated to make any further payments under the program and shall not be entitled to any discounts under the program for any period of time after the last month for which payment has been made.

(d) If the seller of a third-party discount membership program cancels the program for any reason other than nonpayment by the consumer, the seller shall make pro rata reimbursement to the consumer of all periodic charges paid by the consumer for periods of time after cancellation. Prior to such cancellation, the seller shall first provide reasonable notice and an explanation of the cancellation in writing to the consumer.

§ 2470ff. MAXIMUM LENGTH OF PLAN

No person shall sell, or offer for sale, a third-party discount membership program lasting longer than 18 months.

§ 2470gg. BILLING INFORMATION

No person who offers or sells third-party discount membership programs shall obtain billing information relating to a consumer except directly from the consumer.

§ 2470hh. VIOLATIONS

(a) A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

(b) The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as is provided under subchapter 1 of this chapter.

(c) It is an unfair and deceptive act and practice in commerce for any person to provide substantial assistance to the seller of a third-party discount membership program that has engaged or is engaging in an unfair or deceptive act or practice in commerce, when the person or the person's authorized agent:

(1) receives notice from a regulatory, law enforcement, or similar governmental authority that the seller of the third-party discount membership program is in violation of this subchapter;

(2) knows from information received or in its possession that the seller of the third-party discount membership program is in violation of this subchapter; or

(3) consciously avoids knowing that the seller of the third-party discount membership program is in violation of this subchapter.

(d) Subject to section 2452 of this title, a person who provides only incidental assistance, which does not further the sale of a third-party discount membership program, to the seller of the program, or who does not receive a benefit from providing assistance to the seller of a discount membership, shall not be liable under this section unless the person receives notice, knows, or consciously avoids knowing, pursuant to subdivision (c)(1), (2), or (3) of this section, that a third-party discount membership program is in violation of this chapter.

Sec. E.2. 9 V.S.A. chapter 63, subchapter 1E is added to read:

Subchapter 1E: Add-On Discount Membership Programs

§ 2470ii. DEFINITIONS

As used in this subchapter:

(1) An "add-on discount membership program" is a program that entitles consumers to receive discounts, rebates, rewards, or similar incentives

on the purchase of goods or services or both, sold to a consumer during the purchase of a different good or service using the same billing information.

(2) "Billing information" means any data that enables a seller of an add-on discount membership program to access a consumer's credit or debit card, bank, or other account, but does not include the consumer's name, e-mail address, telephone number, or mailing address. For credit card and debit card accounts, billing information includes the full account number, card type, and expiration date, and, if necessary, the security code. For accounts at a financial institution, "billing information" includes the full account number and routing number, and, if necessary, the name of the financial institution holding the account.

§ 2470jj. APPLICABILITY

(a) An add-on discount membership program is a good or service within the meaning of subsection 2451a(b) of this title.

(b) This subchapter applies only to persons who are regularly engaged in offering or selling add-on discount membership programs.

(c) This subchapter shall not apply to an electronic payment system, as defined in section 2480o of this title, or to a financial institution, as defined in 8 V.S.A. § 11101(32).

§ 2470kk. REQUIRED DISCLOSURES; CONSENT

(a) No person shall charge or attempt to charge a consumer for an add-on discount membership program, or to renew an add-on discount membership program beyond the term expressly agreed to by the consumer, unless:

(1) before obtaining the consumer's billing information, the person has clearly and conspicuously disclosed to the consumer all material terms of the transaction, including:

(A) a description of the types of goods and services on which a discount is available;

(B) the name of the add-on discount membership program, the name and address of the seller of the program, and a telephone number, e-mail address, or other contact information the consumer may use to contact the seller with questions concerning the operation of the program;

(C) the cost of the program, including the amount of any periodic charges, how often such charges are imposed, and the method of payment; and

(D) the right to cancel and to terminate the program, which shall be no more restrictive than as required by section 2470ll of this title, and a

toll-free telephone number and e-mail address that can be used to cancel the membership;

(2) before obtaining the consumer's billing information, the person has received express informed consent for the add-on membership program from the consumer whose credit or debit card, bank, or other account will be charged, by requiring the consumer to perform an additional affirmative action, such as clicking on an online confirmation button, checking an online box that indicates the consumer's consent to be charged the amount disclosed, or expressly giving consent over the telephone; and

(3) after providing the disclosures and obtaining the consent required by subdivisions (1) and (2) of this subsection, obtaining from the consumer:

(A) the consumer's billing information; and

(B) the consumer's name and address, and a means to contact the consumer.

(b) A person who sells an add-on discount membership program shall retain evidence of a consumer's express informed consent for at least three years after the consent is given.

(c) A person who sells an add-on discount membership program shall provide to a consumer on the receipt for the underlying good or service:

(1) confirmation that the consumer has signed up for a discount membership program;

(2) the price the consumer will be charged for the program;

(3) the date on which the consumer will first be charged for the program;

(4) the frequency of charges for the program; and

(5) information concerning the consumer's right to cancel the program and a toll-free telephone number, address, and e-mail address a consumer may use to cancel the program.

§ 2470ll. CANCELLATION AND TERMINATION

(a) In addition to any other right to revoke an offer, a consumer may cancel the purchase of an add-on discount membership program until midnight on the 30th day after the date the consumer has given express informed consent to be charged for the program. If the consumer cancels within the 30-day period, the seller of the add-on discount membership program shall, within 10 days of receiving the notice of cancellation, provide a full refund to the consumer less

the value of any discount the consumer has received by using the add-on discount membership program.

(b)(1) Notice of cancellation shall be deemed given when deposited in a mailbox properly addressed and postage prepaid or when e-mailed to the e-mail address of the seller of the add-on discount membership program.

(2) A consumer may cancel an add-on discount membership program verbally by contacting the seller at a toll-free telephone number that the seller provides for that purpose.

(c) In addition to the right to cancel described in this subchapter, a consumer may terminate an add-on discount membership program at any time by providing notice to the seller by one of the methods described in this section. In that case, the consumer shall not be obligated to make any further payments under the program and shall not be entitled to any discounts under the program for any period of time after the last month for which payment has been made.

(d) If the seller of an add-on discount membership program cancels the program for any reason other than nonpayment by the consumer, the seller shall make pro rata reimbursement to the consumer of all periodic charges paid by the consumer for periods of time after cancellation. Prior to such cancellation, the seller shall first provide reasonable notice and an explanation of the cancellation in writing to the consumer.

§ 2470mm. BILLING INFORMATION

A person who offers or sells a discount membership program may not obtain billing information relating to a consumer except directly from the consumer.

§ 2470nn. VIOLATIONS

(a) A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

(b) The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions as is provided under subchapter 1 of this chapter.

(c) It is an unfair and deceptive act and practice in commerce for any person to provide substantial assistance to the seller of an add-on discount membership program that has engaged or is engaging in an unfair or deceptive act or practice in commerce, when the person or the person's authorized agent:

(1) receives notice from a regulatory, law enforcement, or similar governmental authority that the seller of the add-on discount membership program is in violation of this subchapter;

(2) knows from information received or in its possession that the seller of the add-on discount membership program is in violation of this subchapter; or

(3) consciously avoids knowing that the seller of the add-on discount membership program is in violation of this subchapter.

(d) Subject to section 2452 of this title, a person who provides only incidental assistance, which does not further the sale of an add-on discount membership program, to the seller of the program, or who does not receive a benefit from providing assistance to the seller of a an add-on discount membership, shall not be liable under this section unless the person receives notice, knows, or consciously avoids knowing, pursuant to subdivision (c)(1), (2), or (3) of this section, that an add-on discount membership program is in violation of this chapter.

* * * Financial Institutions; Licensed Lender; Technical Corrections * * *

F.1. 8 V.S.A. § 10101 is amended to read:

§ 10101. APPLICATION OF CONSUMER PROTECTION CHAPTER

Except as otherwise provided in this chapter, the provisions of this chapter shall apply to all financial institutions, as defined in subdivision 11101(32) of this title, licensed lenders, mortgage brokers, mortgage loan originators, sales finance companies, independent trust companies, money service providers, debt adjusters, loan servicers, credit unions, and any other person doing or soliciting business in this State as described in Part 2, 4, or 5~~, or 6~~ of this title, in addition to any other applicable consumer protection or remedy section not contained in this chapter, unless such consumer protection or remedy section is expressly made exclusive.

F.2. 8 V.S.A. § 10601 is amended to read:

§ 10601. APPLICATION

This subchapter shall apply to all persons licensed, authorized, or registered, or required to be licensed, authorized, or registered under Parts 2, 4, and 5~~, and 6~~ of this title.

F.3. 8 V.S.A. 2200(17) is amended to read:

(17) "Mortgage loan originator":

* * *

(D) Does not include:

(i) an individual engaged solely as a loan processor or underwriter, except as otherwise provided in subsection 2201~~(f)~~(g) of this chapter;

* * *

* * * Internet Dating Services * * *

Sec. G.1. FINDINGS AND PURPOSE

(a) The General Assembly finds:

(1) Currently, an Internet dating service does not have an affirmative duty under any state or federal law to ban a member of the service, but a service may choose to voluntarily ban a member for violating one or more terms of use, or because the service determines the member poses a risk of defrauding another member.

(2) In 2014, Internet dating services banned millions of members, the vast majority of which were banned within 72 hours of creating an account with the service.

(3) Of the members banned in 2014, well less than one percent contacted the Internet dating service concerning the ban.

(4) Due to a growing number of cases in which Vermont members of Internet dating services have lost significant financial amounts to persons using Internet dating services to defraud members or businesses, the Office of the Vermont Attorney General proposes this legislation, working with the input of multiple Internet dating services and other stakeholders.

(5) If an Internet dating service violates the statutory provisions created in this act, the Attorney General has the authority pursuant to 9 V.S.A. §§ 2458 and 2459 to request from a court, or to settle with the service for, restitution for a consumer or class of consumers affected by the violation.

(b) Purpose. The purposes of this act are:

(1) to protect Vermont consumers by requiring an Internet dating service to disclose in a timely manner important information about banned members to Vermont members of the service;

(2) to protect Internet dating services from liability to members for disclosing the information required by this act, while preserving liability to the State of Vermont and its agencies, departments, and subdivisions for violating this act; and

(3) to protect Vermont consumers and other members of Internet dating services by requiring an Internet dating service to notify its Vermont members when there is a significant change to the Vermont member's account information.

G.2. 9 V.S.A. chapter 63, subchapter 8 is added to read:

Subchapter 8. Internet Dating Services

§ 2482a. DEFINITIONS

In this chapter:

(1) "Account change" means a change to a member's password, username, e-mail address, or other contact information an Internet dating service uses to enable communications between members.

(2) "Banned member" means the member whose account or profile is the subject of a fraud ban.

(3) "Fraud ban" means barring a member's account or profile from an Internet dating service because, in the judgment of the service, the member poses a significant risk of attempting to obtain money from other members through fraudulent means.

(4) "Internet dating service" means a person, or a division of a person, that is primarily in the business of providing dating services principally on or through the Internet.

(5) "Member" means a person who submits to an Internet dating service information required to access the service and who obtains access to the service.

(6) "Vermont member" means a member who provides a Vermont residential or billing address or zip code when registering with the Internet dating service.

§ 2482b. REQUIREMENTS FOR INTERNET DATING SERVICES

(a) An Internet dating service shall disclose to all of its Vermont members known to have previously received and responded to an on-site message from a banned member:

(1) the user name, identification number, or other profile identifier of the banned member;

(2) the fact that the banned member was banned because, in the judgment of the Internet dating service, the banned member may have been using a false identity or may pose a significant risk of attempting to obtain money from other members through fraudulent means;

(3) that a member should never send money or personal financial information to another member; and

(4) a hyperlink to online information that clearly and conspicuously addresses the subject of how to avoid being defrauded by another member of an Internet dating service.

(b) The notification required by subsection (a) of this section shall be:

(1) clear and conspicuous;

(2) by e-mail, text message, or other appropriate means of communication; and

(3) sent within 24 hours after the fraud ban, or at a later time if the service has determined, based on an analysis of effective messaging, that a different time is more effective, but in no event later than three days after the fraud ban.

(c) An Internet dating service shall disclose in an e-mail, text message, or other appropriate means of communication, in a clear and conspicuous manner, within 24 hours after discovering an account change to a Vermont member's account:

(1) the fact that information on the member's account has been changed;

(2) a brief description of the change; and

(3) if applicable, how the member may obtain further information on the change.

(d)(1) A banned member from Vermont who is identified to one or more Vermont members pursuant to subsection (a) of this section shall have the right to challenge the ban by written complaint to the Office of the Vermont Attorney General.

(2) The Office of the Attorney General shall review a challenge brought by a banned member pursuant to this subsection and, if it finds that there was no reasonable basis for banning the member, shall require the Internet dating service to take reasonable corrective action to cure the erroneous ban.

§ 2482c. LIMITED IMMUNITY

(a) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State, for disclosing to any member that it has banned a member, the user name or identifying information of the banned member, or the reasons for the Internet dating service's decision to ban such member in accordance with section 2482b of this title.

(b) An Internet dating service shall not be liable to any person, other than the State of Vermont, or any agency, department, or subdivision of the State, for the decisions regarding whether to ban a member, or how or when to notify a member pursuant to section 2482b of this title.

(c) This subchapter does not diminish or adversely affect the protections for Internet dating services that are afforded in 47 U.S.C. § 230 (Federal Communications Decency Act).

§ 2482d. VIOLATIONS

(a) A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

(b) The Attorney General has the same authority to make rules, conduct civil investigations, and enter into assurances of discontinuance as is provided under subchapter 1 of this chapter.

* * * Effective Dates * * *

Sec. H.1. EFFECTIVE DATES

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

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

(1) Secs. A.1–A.2 (consumer litigation funding).

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

(3) Secs. C.1–C.14 (business registration; enforcement).

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

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

(6) Sec. G.1 (findings and purpose; internet dating services).

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

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

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

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

An act relating to consumer protection

KEVIN J. MULLIN
PHILIP E. BARUTH
REBECCA A. BALINT

Committee on the part of the Senate

MICHAEL J. MARCOTTE
MAUREEN P. DAKIN
HELEN J. HEAD

Committee on the part of the House

H. 571.

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

To the Senate and House of Representatives:

The Committee of Conference, to which were referred the disagreeing votes of the two Houses upon House Bill, entitled:

H.571. An act relating to an act relating to driver's license suspensions, driving with a suspended license, and DUI penalties.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its Proposal of Amendment and that the bill be amended 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; intent.

(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.

(4) The Judicial Bureau's historical experience in collecting traffic violation judgments is that, on average, 90 percent of all traffic violation judgments assessed in any twelve month period are paid in full within five years and that the remaining 10 percent are never paid. The consensus revenue forecast of revenue attributable to collections on traffic violation judgments is based on actual historical collections, and thus the forecast incorporates the Judicial Bureau's historical collection experience. The traffic violation judgments eligible for reduction under subsection (b) of this section will be more than five fiscal years old at the time of the Program. The reduction of such judgments under the Program is expected to have no adverse impact on any of the special or other funds to which collections of traffic violation judgments are deposited.

(b) Traffic violation judgments entered prior to July 1, 2012; 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, 2012 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.

(g) Reporting on Program. On or before the first meeting of the Joint Legislative Justice Oversight Committee that occurs after the end of the Program, the Court Administrator and the Department of Motor Vehicles shall coordinate to report to the Oversight Committee:

(1) all costs associated with running the Program;

(2) the number of traffic violation judgments reduced to $30.00 under subsection (b) of this section, the total number of these judgments paid, and the total amount collected in connection with payment of the judgments;

(3) the number of persons eligible for a reduced judgment under subsection (b) of this section who did not apply for a reduced judgment;

(4) the number of suspensions terminated, as well as the number of unique persons whose suspensions were terminated, under subdivision (d)(2) of this section; and

(5) the number of persons whose license or privilege to operate was fully reinstated as a result of the termination of suspensions under subdivision (d)(2) of this section.

* * * 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 judgment on a traffic violation for which the imposition of points against the person's driving record is authorized by law, 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~~ 30 days, for a first offense; and

(B) a civil penalty of not more than $600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of ~~180~~ 90 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. § 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~~ 30 days, for a first offense; and

(2) a civil penalty of not more than $600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of ~~180~~ 90 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. 13. 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. 14. 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. 15. 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. 16. 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. 17. 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. 18. 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~~;

(B) child restraint or safety belt systems or seat belts as required in section 1258 or 1259 of this title; or

(C) motorcycle headgear under section 1256 of this title.

Sec. 19. 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. 20. 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. 21. 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. <u>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.</u>

(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. 22. 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.

* * * Statistics on License Suspensions Imposed and Pending * * *

Sec. 23. ANNUAL REPORTING OF LICENSE SUSPENSION STATISTICS

On or before January 15, 2017, and annually thereafter until January 15, 2021, the Department of Motor Vehicles shall submit a written report of the following statistics to the House and Senate Committees on Judiciary and on Transportation, relating to suspensions of a license or privilege to operate a motor vehicle in Vermont:

(1) The number of suspensions imposed in the prior calendar year and, of this number, the number of suspensions imposed:

(A) for nonpayment of a traffic violation judgment;

(B) for accumulation of points against a person's driving record;

(C) pursuant to 23 V.S.A. §§ 1206 and 1208 (criminal DUI convictions);

(D) pursuant to 23 V.S.A. § 1205 (civil DUI suspensions);

(E) pursuant to 23 V.S.A. § 1216 (civil DUI suspensions; under 21 years of age);

(F) 7 V.S.A. § 656 (underage alcohol violation; failure to report to or complete Diversion); and

(G) 18 V.S.A. § 4230b (underage marijuana violation; failure to report to or complete Diversion).

(2) The number of unique individuals whose licenses were suspended in the prior calendar year and, of this number, the number of individuals whose address of record with the Department of Motor Vehicles is Vermont.

(3) As of the date that the Department of Motor Vehicles queries its system in carrying out the annual report:

(A) the number of pending suspensions in effect and, of that number, the number of such suspensions attributable to each the grounds listed in subdivisions (1)(A)–(G) of this section; and

(B) the number of unique individuals with pending suspensions in effect and, of this number, the number of individuals whose address of record with the Department of Motor Vehicles is Vermont.

* * * 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 prior to forcibly entering the vehicle;

(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.

* * * 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.

* * * 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), Secs. 4–15 (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.

(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

RICHARD W. SEARS
ALICE W. NITKA
MARGARET K FLORY

Committee on the part of the Senate

CHARLES W. CONQUEST
WILLEM W. JEWETT
WILLIAM P. CANFIELD

Committee on the part of the House

H. 869.

An act relating to judicial organization and operations.

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House Bill entitled:

H.869. An act relating to judicial organization and operations.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate proposal of amendment with further proposals of amendment as follows:

First: In Sec. 1, 4 V.S.A. § 38, in subsection (a), by inserting a subdivision (3) to read as follows:

(3) 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 V.R.C.P. 53 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.

Second: In Sec. 1, 4 V.S.A. § 38, in subsection (c), by striking out "(a)(4)" and inserting in lieu thereof (a)(3)

Third: By striking out Sec. 8a in its entirety and inserting in lieu thereof a new Sec. 8a to read as follows:

Sec. 8a. SPOUSAL SUPPORT AND MAINTENANCE TASK FORCE

On or before January 15, 2017, the Family Division Oversight Committee of the Supreme Court shall report to the Senate and House Committees on Judiciary on its study of spousal support and maintenance guidelines in Vermont. The report shall include any legislative recommendations for changes to Vermont's law concerning spousal support and maintenance.

RICHARD W. SEARS
JOHN F. CAMPBELL
JOSEPH C. BENNING
Committee on the part of the Senate
MARTIN J. LALONDE
VICKI M. STRONG
MAXINE JO GRAD
Committee on the part of the House

ORDERED TO LIE

J.R.H. 26.

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

PENDING QUESTION: Shall the Senate propose to the House to amend the resolution as recommended by the Committee on Natural Resources and Energy?

CONCURRENT RESOLUTIONS FOR ACTION

S.C.R. 44-47 (For text of Resolutions, see Addendum to Senate Calendar for May 5, 2016)

H.C.R. 379-416 (For text of Resolutions, see Addendum to House Calendar for May 5, 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)

Hannah Sessions of Salisbury – Member of the Vermont Housing and Conservation Board – By Sen. Balint for the Committee on Economic Development, Housing and General Affairs. (5/7/16)