

House Calendar

Wednesday, April 26, 2017

113th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 PM

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ACTION CALENDAR

Action Postponed Until April 26, 2017

Senate Proposal of Amendment

H. 145

An act relating to establishing the Mental Health Crisis Response Commission

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

First: In Sec. 1, 18 V.S.A. § 7257a, in subdivision (b)(1), by striking out the second sentence in its entirety and inserting in lieu thereof a new sentence to read as follows:

A law enforcement officer or mental health crisis responder involved in an interaction not resulting in death or serious bodily injury is encouraged to refer the interaction for optional review to the Commission, including interactions with positive outcomes that could serve to provide guidance in effective strategies.

Second: In Sec. 1, 18 V.S.A. § 7257a, by striking out subdivision (b)(2) in its entirety and inserting in lieu thereof as follows:

(2) The review process shall not commence until any criminal prosecution arising out of the incident is concluded or the Attorney General and State's Attorney provide written notice to the Commission that no criminal charges shall be filed.

Third: In Sec. 1, 18 V.S.A. § 7257a, in subsection (i), in the first sentence, by striking out “on or before January 15 of the first year of the biennium” and inserting in lieu thereof as the Commission deems necessary, but no less frequently than once per calendar year

Amendment to be offered by Rep. Donahue of Northfield to H. 145

Representative Donahue recommends that the House concur with the Senate Proposal of Amendment with further proposal of amendment in Sec. 1, 18 V.S.A. § 7257a, subdivision (b)(1), by striking out the last sentence and inserting in lieu thereof the following: “Interactions not resulting in death or serious bodily injury may be referred for optional review to the Commission, including review of interactions with positive outcomes that could serve to provide guidance on effective strategies. A law enforcement officer or mental health crisis responder involved in such an interaction is encouraged to refer it to the Commission.”

H. 184

An act relating to evaluation of suicide profiles

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

Sec. 1. EVALUATION OF SUICIDE PROFILES

(a) On or before January 15, 2018, the Secretary of Human Services or designee shall present to the Senate Committee on Health and Welfare and to the House Committee on Health Care a summary of the Agency's internal Public Health Suicide Stat process results and any analyses or reports completed in relation to the Agency's participation in the Centers for Disease Control and Prevention's National Violent Death Reporting System, including what methods the Agency currently uses or plans to use to:

(1) determine trends and patterns of suicide deaths;

(2) identify and evaluate the prevalence of risk factors for preventable deaths;

(3) evaluate high-risk factors, current practices, gaps in systematic responses, and barriers to safety and well-being for individuals at risk for suicide; and

(4) inform the implementation of suicide prevention activities and supporting the prioritization of suicide prevention resources and activities.

(b) On or before January 15, 2019, the Secretary shall present plans to the Senate Committee on Health and Welfare and to the House Committee on Health Care describing how data relevant to subdivisions (a)(1)–(4) of this section shall be collected after the National Violent Death Reporting System grant expires.

(c) On or before January 15, 2020, the Secretary shall submit a report to the Senate Committee on Health and Welfare and to the House Committee on Health Care summarizing:

(1) any information from the Agency's final National Violent Death Reporting System analysis relevant to subdivisions (a)(1)–(4) of this section; and

(2) the Agency's recommendations and action plans resulting from its final National Violent Death Reporting System analysis and any additional Agency-led initiatives.

(d) The presentation and report required by subsections (a) and (b) of this section shall not contain any personally identifying information.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

NEW BUSINESS

Third Reading

H. 524

An act relating to approval of amendments to the charter of the Town of Hartford

H. 527

An act relating to approval of amendments to the charter of the Town of East Montpelier and to the merger of the Town and the East Montpelier Fire District No. 1

S. 10

An act relating to liability for the contamination of potable water supplies

S. 52

An act relating to the Public Service Board and its proceedings

Amendment to be offered by Rep. Lippert of Hinesburg to S. 52

First: After Sec. 13, by inserting Sec. 13a to read:

* * * In-person Citizens' Access to Public Service Board Hearings * * *

Sec. 13a. 30 V.S.A. § 11 is amended to read:

§ 11. PLEADINGS; RULES OF PRACTICE; HEARINGS; FINDINGS OF
FACT

* * *

(b) The Board shall allow all members of the public to attend each of its hearings unless the hearing is for the sole purpose of considering information to be treated as confidential pursuant to a protective order duly adopted by the Board.

(1) The Board shall ensure that the location of each hearing is sufficient to accommodate all members of the public seeking to attend and, if necessary, shall recess and reconvene the hearing to fulfill this duty.

(2) The Board shall ensure that the public may safely attend the hearing, including obtaining such resources as may be necessary to fulfill this obligation.

(c) The Board shall hear all matters within its jurisdiction, and make its

findings of fact. It shall state its rulings of law when they are excepted to. Upon appeal to the Supreme Court, its findings of fact shall be accepted unless clearly erroneous.

Second: After Sec. 25, by inserting Sec. 25a to read:

* * * Open Meeting Law; Public Service Board * * *

Sec. 25a. REPORT; OPEN MEETING LAW; PUBLIC SERVICE BOARD

(a) On or before December 15, 2017, the Attorney General shall submit a report on the exemption of the Public Service Board from the Vermont Open Meeting Law, 1 V.S.A. § 312(e). The report shall evaluate whether the Board should continue to have a complete exemption from the Open Meeting Law or whether its exemption should be limited, as with other administrative boards, to the Board's deliberations in connection with quasi-judicial proceedings. The report shall set out the reasons favoring and disfavoring each of these outcomes and provide the Attorney's General recommendation.

(b) The report described in subsection (a) shall be submitted to the House and Senate Committees on Government Operations, the House Committee on Energy and Technology, and the Senate Committees on Finance and on Natural Resources and Energy.

Third: In Sec 26, effective dates, in the first sentence, by striking out “25” and inserting in lieu thereof “25a”

S. 130

An act relating to miscellaneous changes to education laws

Amendment to be offered by Reps. Sibilio of Dover, Gannon of Wilmington and Olsen of Londonderry to S. 130

By striking out Sec. 16 (Education Weighting Study Committee) in its entirety, with its reader assistance, and inserting in lieu thereof a new Sec. 16, with reader assistance, to read:

* * * Education Weighting Report * * *

Sec. 16. EDUCATION WEIGHTING REPORT

(a) The Agency of Education, in consultation with the Joint Fiscal Office and the Office of Legislative Council, shall consider and make recommendations on the criteria used for the determining weighted long-term membership of a school district under 16 V.S.A. § 4010, including the following.

(1) The current weighting factors and any supporting evidence or basis in the historical record for these factors.

(2) The relationship between each of the current weighting factors and the quality and equity of educational outcomes for students.

(3) Whether any of the weighting factors, including the weighting factors for students from economically deprived backgrounds and for students for whom English is not the primary language, should be modified, and if so, how the weighting factors should be modified and if the modification would further the quality and equity of educational outcomes for students.

(4) Whether to add any weighting factors, including a school district population density factor, and if so, why the weighting factor should be added and if the weighting factor would further the quality and equity of educational outcomes for students. In considering whether to recommend the addition of a school district population density factor, the Agency of Education shall consider the practices of other states, information from the National Council for State Legislatures, and research conducted by higher education institutions working on identifying rural or urban education financing factors.

(b) In addition to considering and making recommendations on the criteria used for the determining weighted long-term membership of a school district under subsection (a) of this section, the Agency of Education may consider and make recommendations on other methods that would further the quality and equity of educational outcomes for students.

(c) Report. On or before December 15, 2017, the Agency of Education shall submit a written report to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance with its findings and any recommendations.

Amendment to be offered by Rep. Cupoli of Rutland City to S. 130

By striking out Sec. 14 in its entirety and inserting in lieu thereof a new Sec. 14 to read:

Sec. 14. 16 V.S.A. § 255 (k) and (l) are added to read:

(k) The requirements of this section shall not apply to persons operating or employed by a child care facility that is prequalified to provide prekindergarten education pursuant to section 829 of this title and that is required to be licensed by the Department for Children and Families pursuant to 33 V.S.A § 3502.

(l) The requirements of this section shall not apply with respect to a school district's partners in any program authorized or student placement created by chapter 23, subchapter 2 of this title. It is provided, however, that superintendents are not prohibited from requiring a fingerprint supported record check pursuant to district policy with respect to its partners in such programs.

Amendment to be offered by Rep. Beck of St. Johnsbury to S. 130

First: By striking out Sec. 21 (effective dates) in its entirety, with its reader assistance.

Second: By adding three new sections, to be Secs. 21, 22, and 23, with reader assistances, to read:

* * * High School Completion Program * * *

Sec. 21. 16 V.S.A. § 942(6) is amended to read:

(6) ~~“Contracting agency”~~ “Local adult education and literacy provider” means an entity that ~~enters into a contract with the Agency to provide “flexible pathways to graduation” services itself or in conjunction with one or more approved providers in Vermont~~ is awarded Federal or State grant funds to conduct adult education and literacy activities.

Sec. 22. 16 V.S.A. § 943 is amended to read:

§ 943. HIGH SCHOOL COMPLETION PROGRAM

(a) There is created a High School Completion Program to be a potential component of a flexible pathway for any Vermont student who is at least 16 years ~~old~~ of age, who has not received a high school diploma, and who may or may not be enrolled in a public or approved independent school.

(b) If a person who wishes to work on a personalized learning plan leading to graduation through the High School Completion Program is not enrolled in a public or approved independent school, then the Secretary shall assign the prospective student to a high school district, which shall be the district of residence whenever possible. The school district in which a student is enrolled or to which a nonenrolled student is assigned shall work with the ~~contracting agency~~ local adult education and literacy provider that serves the high school district and the student to develop a personalized learning plan. The school district shall award a high school diploma upon successful completion of the plan.

(c) The Secretary shall reimburse, and net cash payments where possible, a school district that has agreed to a personalized learning plan developed under this section in an amount:

(1) established by the Secretary for the development and ongoing evaluation and revision of the personalized learning plan and for other educational services typically provided by the assigned district or an approved independent school pursuant to the plan, such as counseling, health services, participation in cocurricular activities, and participation in academic or other courses; provided, however, that this amount shall not be available to a school district that provides services under this section to an enrolled student; and

(2) negotiated by the Secretary and the ~~contracting agency~~ local adult education and literacy provider, with the approved provider, for services and outcomes purchased from the approved provider on behalf of the student pursuant to the personalized learning plan.

* * * Effective Dates * * *

Sec. 23. EFFECTIVE DATES

(a) This section, Secs. 1–7, 9–13, 16, and 20–22 shall take effect on passage.

(b) Sec. 8 (State-placed students) shall take effect beginning with the 2017–2018 school year.

(c) Sec. 14 (criminal record checks) shall take effect on passage and shall apply to persons hired or contracted with after June 30, 2017 and to persons who apply for or renew child care provider license after June 30, 2017.

(d) Sec. 17 (surety bond; postsecondary institutions) shall take effect on October 1, 2017.

Favorable with Amendment

S. 9

An act relating to the preparation of poultry products

Rep. Buckholz of Hartford, for the Committee on Agriculture & Forestry, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 2, 6 V.S.A. § 3312, by striking out subdivision (c)(2) in its entirety and inserting in lieu thereof the following:

(2) As used in this subsection, “sanitary standards, practices, and procedures” means:

(A) the poultry are slaughtered in a facility that is soundly constructed, kept in good repair, and of sufficient size;

(B) rooms or compartments in which an edible product is processed, handled, or stored shall be separated from areas used for slaughter;

(C) all food-contact surfaces and nonfood-contact surfaces in the building are cleaned and sanitized as frequently as necessary to prevent the creation of insanitary conditions and the adulteration of the products;

(D) pest control shall be adequate to prevent the harborage of pests on the grounds and within the facility;

(E) substances used for sanitation and pest control shall be safe and

effective under the conditions of use, and shall not be applied or stored in a manner that will result in the contamination of edible products;

(F) sewage from human waste shall be disposed of in a sewage system separate from other drainage lines or disposed of through other means sufficient to prevent backup of sewage into areas where the product is processed, handled, or stored;

(G) process wastewater should be handled in a manner to prevent the creation of insanitary conditions, which may include through on-farm composting under the required agricultural practices;

(H) a supply of potable water of suitable temperature is provided in all areas where required for processing the product, cleaning rooms, cleaning equipment, cleaning utensils, and cleaning packaging materials;

(I) equipment and utensils used for processing or handling edible product are of a material that is cleanable and sanitizable;

(J) receptacles used for storing inedible material are of such material and construction that their use will not result in adulteration of any edible product or create insanitary conditions;

(K) a person working in contact with the poultry products, food-contact surfaces, and product-packaging material shall maintain hygienic practices; and

(L) clothing worn by persons who handle poultry products shall be of material that is cleanable or disposable; clean garments shall be worn at the start of each working day; and garments shall be changed during the day as often as necessary to prevent adulteration of poultry products or the creation of insanitary conditions.

Second: In Sec. 2, 6 V.S.A. § 3312, by adding a subsection (h) to read as follows:

(h) Approved label. Prior to selling poultry products slaughtered pursuant to the exemption in subsection (c) or (d) of this section, a poultry producer shall submit to the Secretary for approval a copy of the label that the poultry producer proposes to use for compliance with the requirements of subsection (e) of this section.

(Committee vote: 9-1-1)

(For text see Senate Journal March 1, 2017)

S. 33

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

Rep. Hooper of Brookfield, for the Committee on Agriculture & Forestry, recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 1, in 6 V.S.A. § 4719, in subdivision (a)(5), after “Vermont students in” and before “programs” by striking out the words “school meal” and inserting in lieu thereof the words “child nutrition”

Second: In Sec. 1, by striking out 6 V.S.A. § 4721 in its entirety and inserting in lieu thereof the following:

§ 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, administer, 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 registered or licensed child care 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 Program~~ child nutrition programs;

(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 educators 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, child nutrition personnel, and members of the farm-to-school community educate students about nutrition and farm-to-school connections and assist schools and licensed or registered childcare providers in developing a farm-to-school program.

(4) fund technical assistance or support strategies to increase participation in federal child nutrition programs that increase the 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 child 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~~, registered or licensed child care providers that are developing farm-to-school connections and education that indicate a willingness to make changes to their child nutrition programs to 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.

(Committee vote: 10-0-1)

(For text see Senate Journal February 10, 2017)

Senate Proposal of Amendment

H. 5

An act relating to investment of town cemetery funds

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

Sec. 1. 18 V.S.A. § 5384 is amended to read:

§ 5384. PAYMENT TO TREASURER; RECORD; INVESTMENT

(a) Unless otherwise directed by the donor, all ~~moneys~~ monies received by a town for cemetery purposes shall be paid to the town treasurer who shall give a receipt therefor, which shall be recorded in the office of the town clerk in a book kept for that purpose. In such book shall also be stated the amount received from each donor, the time when, and the specific purpose to which the use thereof is appropriated.

(b)(1) All ~~moneys~~ monies so received by the town may be invested and reinvested by the treasurer, with the approval of the ~~selectmen~~ selectboard, by deposit in:

(A) banks chartered by the ~~state~~ State;

(B) ~~or in~~ national banks;

(C) bonds of the United States or of municipalities whose bonds are legal investment for banks chartered by the state State;

(D) ~~or in~~ bonds or notes legally issued in anticipation of taxes by a town, village, or city in this state State, or first mortgages on real estate in Vermont;

(E) ~~or in~~ the shares of an investment company, or an investment trust, ~~which~~ such as a mutual fund, closed-end fund, or unit investment trust, that is registered under the federal Investment Company Act of 1940, as amended, if such ~~mutual investment~~ fund has been in operation for at least 10 five years and has net assets of at least ~~\$10,000,000.00~~ \$100,000,000.00; or

(F) ~~in~~ shares of a savings and loan association of this state State, or share accounts of a federal savings and loan association with its principal office in this state State, when and to the extent to which the withdrawal or repurchase value of such shares or accounts are insured by the Federal Savings and Loan Insurance Corporation.

(2)(A) However, in ~~towns~~ a town that ~~elect~~ elects trustees of public funds, ~~such cemetery~~ funds shall be invested by ~~such the~~ trustees in any of the securities ~~hereinbefore~~ enumerated in this section, and the income thereof paid to the proper officers as the same falls due.

(B) The Investment income ~~therefrom~~ shall be expended for the purpose and in the manner designated by the donor. The provisions of this section as to future investments shall not require the liquidation or disposition of securities legally acquired and held.

(3) The treasurer, selectboard, or trustees of public funds may delegate management and investment of town cemetery funds to the extent that it is prudent under the terms of the trust or endowment, and in accordance with the Uniform Prudent Management of Institutional Funds Act, 14 V.S.A. § 3415 (delegation of investment functions). An agent exercising a delegated management or investment function may invest cemetery funds only in the securities enumerated in this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

H. 74

An act relating to nonconsensual sexual conduct

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

Sec. 1. 13 V.S.A. § 2601a is added to read:

§ 2601a. PROHIBITED CONDUCT

(a) No person shall engage in open and gross lewdness.

(b) A person who violates this section shall:

(1) be imprisoned not more than one year or fined not more than \$300.00, or both, for a first offense; and

(2) be imprisoned not more than two years or fined not more than \$1,000.00, or both, for a second or subsequent offense.

Sec. 2. 13 V.S.A. § 2632 is amended to read:

§ 2632. ~~PROHIBITED ACTS~~ PROSTITUTION

* * *

Sec. 3. 13 V.S.A. § 1030 is amended to read:

§ 1030. VIOLATION OF AN ABUSE PREVENTION ORDER, AN ORDER AGAINST STALKING OR SEXUAL ASSAULT, OR A PROTECTIVE ORDER CONCERNING CONTACT WITH A CHILD

(a) A person who intentionally commits an act prohibited by a court or who fails to perform an act ordered by a court, in violation of an abuse prevention order issued under 15 V.S.A. chapter 21 ~~of Title 15~~ or 33 V.S.A. chapter 69 ~~of Title 33~~, a protective order that concerns contact with a child and is issued under 33 V.S.A. chapter 51 ~~of Title 33~~, or an order against stalking or sexual assault issued under 12 V.S.A. chapter 178 ~~of Title 12~~, after the person has been served notice of the contents of the order as provided in those chapters; or in violation of a foreign abuse prevention order or an order against stalking or sexual assault issued by a court in any other state, federally recognized Indian tribe, territory or possession of the United States, the Commonwealth of Puerto Rico, or the District of Columbia; shall be imprisoned not more than one year or fined not more than \$5,000.00, or both.

(b) A person who is convicted of a second or subsequent offense under this section or is convicted of an offense under this section and has previously been convicted of domestic assault under section 1042 of this title, first degree aggravated domestic assault under section 1043 of this title, or second degree aggravated domestic assault under section 1044 of this title shall be imprisoned not more than three years or fined not more than \$25,000.00, or both.

(c) Upon conviction under this section for a violation of an order issued under 15 V.S.A. chapter 21 ~~of Title 15~~, the court shall, unless the circumstances indicate that it is not appropriate or not available, order the defendant to participate in domestic abuse counseling or a domestic abuse

prevention program approved by the department of corrections Department of Corrections. The defendant may at any time request the court to approve an alternative program. The defendant shall pay all or part of the costs of the counseling or program unless the court finds that the defendant is unable to do so.

(d) Upon conviction for a violation of an order issued under 12 V.S.A. chapter 178 of Title 12, the court may order the defendant to participate in mental health counseling or sex offender treatment approved by the ~~department of corrections~~ Department of Corrections. The defendant shall pay all or part of the costs of the counseling unless the court finds that the defendant is unable to do so.

(e) Nothing in this section shall be construed to diminish the inherent authority of the courts to enforce their lawful orders through contempt proceedings.

(f) Prosecution for violation of an abuse prevention order or an order against stalking or sexual assault shall not bar prosecution for any other crime, including any crime that may have been committed at the time of the violation of the order.

Sec. 4. 13 V.S.A. § 3281 is added to read:

§ 3281. SEXUAL ASSAULT SURVIVORS' RIGHTS

(a) Short title. This section may be cited as the "Bill of Rights for Sexual Assault Survivors."

(b) Definition. As used in this section, "sexual assault survivor" means a person who is a victim of an alleged sexual offense.

(c) Survivors' rights. When a sexual assault survivor makes a verbal or written report to a law enforcement officer, emergency department, sexual assault nurse examiner, or victim's advocate of an alleged sexual offense, the recipient of the report shall provide written notification to the survivor that he or she has the following rights:

(1) The right to receive a medical forensic examination and any related toxicology testing at no cost to the survivor in accordance with 32 V.S.A. § 1407, irrespective of whether the survivor reports to or cooperates with law enforcement. If the survivor opts to have a medical forensic examination, he or she shall have the following additional rights:

(A) the right to have the medical forensic examination kit or its probative contents delivered to a forensics laboratory within 72 hours of collection;

(B) the right to have the sexual assault evidence collection kit or its

probative contents preserved without charge for the duration of the maximum applicable statute of limitations;

(C) the right to be informed in writing of all policies governing the collection, storage, preservation, and disposal of a sexual assault evidence collection kit;

(D) the right to be informed of a DNA profile match on a kit reported to law enforcement or on a confidential kit, on a toxicology report, or on a medical record documenting a medical forensic examination, if the disclosure would not impede or compromise an ongoing investigation; and

(E) upon written request from the survivor, the right to:

(i) receive written notification from the appropriate official with custody not later than 60 days before the date of the kit's intended destruction or disposal; and

(ii) be granted further preservation of the kit or its probative contents.

(2) The right to consult with a sexual assault advocate.

(3) The right to information concerning the availability of protective orders and policies related to the enforcement of protective orders.

(4) The right to information about the availability of, and eligibility for, victim compensation and restitution.

(5) The right to information about confidentiality.

(d) Notification protocols. The Vermont Network Against Domestic and Sexual Violence and the Sexual Assault Nurse Examiner Program, in consultation with other parties referred to in this section, shall develop protocols and written materials to assist all responsible entities in providing notification to victims.

Sec. 5. 13 V.S.A. § 4501 is amended to read:

§ 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN CRIMES

(a) Prosecutions for aggravated sexual assault, aggravated sexual assault of a child, human trafficking, aggravated human trafficking, murder, arson causing death, and kidnapping may be commenced at any time after the commission of the offense.

(b) Prosecutions for manslaughter, ~~sexual assault~~, lewd and lascivious conduct, ~~sexual exploitation of children under chapter 64 of this title~~, sexual abuse of a vulnerable adult, grand larceny, robbery, burglary, embezzlement, forgery, bribery offenses, false claims, fraud under 33 V.S.A. § 141(d), and

felony tax offenses shall be commenced within six years after the commission of the offense, and not after.

(c) Prosecutions for any of the following offenses ~~alleged to have been committed against a child under 18 years of age~~ shall be commenced within 40 years after the commission of the offense, and not after:

(1) sexual assault;

(2) lewd and lascivious conduct alleged to have been committed against a child under 18 years of age;

(3) sexual exploitation of a minor as defined in subsection 3258(c) of this title;

(4) lewd or lascivious conduct with a child; ~~and~~

(5) sexual exploitation of children under chapter 64 of this title; and

(6) manslaughter alleged to have been committed against a child under 18 years of age.

(d) Prosecutions for arson shall be commenced within 11 years after the commission of the offense, and not after.

(e) Prosecutions for other felonies and for misdemeanors shall be commenced within three years after the commission of the offense, and not after.

Sec. 6. 14 V.S.A. § 315 is amended to read:

§ 315. PARENT AND CHILD RELATIONSHIP

(a) For the purpose of intestate succession, an individual is the child of his or her parents, regardless of their marital status, but a parent shall not inherit from a child unless the parent has openly acknowledged the child and not refused to support the child.

(b) The parent and child relationship may be established in parentage proceedings under ~~subchapter 3A of 15 V.S.A. chapter 5 of Title 15,~~ subchapter 3A.

(c) A parent shall not inherit from a child conceived of sexual assault who is the subject of a parental rights and responsibilities order issued pursuant to 15 V.S.A. § 665(f).

Sec. 7. 15 V.S.A. § 665 is amended to read:

§ 665. RIGHTS AND RESPONSIBILITIES ORDER; BEST INTERESTS OF THE CHILD

* * *

(f) The State has a compelling interest in not forcing a victim of sexual assault or sexual exploitation to continue an ongoing relationship with the perpetrator of the abuse. Such continued interaction can have traumatic psychological effects on the victim, making recovery more difficult, and negatively affect the victim's ability to parent and to provide for the best interests of the child. Additionally, the State recognizes that a perpetrator may use the threat of pursuing parental rights and responsibilities to coerce a victim into not reporting or not assisting in the prosecution of the perpetrator for the sexual assault or sexual exploitation, or to harass, intimidate, or manipulate the victim.

(1) The Court may enter an order awarding sole parental rights and responsibilities to a parent and denying all parent-child contact with the other parent if the Court finds by clear and convincing evidence that the nonmoving parent was convicted of sexually assaulting the moving parent and the child was conceived as a result of the sexual assault. As used in this subdivision, sexual assault shall include sexual assault as provided in 13 V.S.A. § 3252(a), (b), (d), and (e), aggravated sexual assault as provided in 13 V.S.A. § 3253, ~~and~~ aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a, lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602, and similar offenses in other jurisdictions.

~~(A) An order issued in accordance with this subdivision (f)(1) shall be permanent and shall not be subject to modification.~~

~~(B) Upon issuance of a rights and responsibilities order pursuant to this subdivision (f)(1), the Court shall not issue a parent-child contact order and shall terminate any existing parent-child contact order concerning the child and the nonmoving parent.~~

(2) The Court may enter an order awarding sole parental rights and responsibilities to one parent and denying all parent-child contact between the other parent and a child if the Court finds by clear and convincing evidence that the child was conceived as a result of the nonmoving parent sexually assaulting or sexually exploiting the moving parent and the Court finds by a preponderance of the evidence that such an order is in the best interest of the child. A conviction is not required under this subdivision, and the Court may consider other evidence of sexual assault or sexual exploitation in making its determination.

~~(A)~~ For purposes of this subdivision (f)(2):

~~(i)(A)~~ sexual assault shall include sexual assault as provided in 13 V.S.A. § 3252, aggravated sexual assault as provided in 13 V.S.A. § 3253, aggravated sexual assault of a child as provided in 13 V.S.A. § 3253a, lewd and lascivious conduct with a child as provided in 13 V.S.A. § 2602, and

similar offenses in other jurisdictions; and

~~(ii)(B)~~ sexual exploitation shall include sexual exploitation of an inmate as provided in 13 V.S.A. § 3257, sexual exploitation of a minor as provided in 13 V.S.A. § 3258, sexual abuse of a vulnerable adult as provided in 13 V.S.A. § 1379, and similar offenses in other jurisdictions.

~~(B) Except as provided in subdivision (f)(2)(C), the Court shall not issue a parent-child contact order in a case in which a parental rights and responsibilities order has been issued pursuant to this subdivision (f)(2) and any existing parent-child contact order concerning the child and the nonmoving parent shall be terminated.~~

~~(C) A party may file a motion for modification of the order only upon a showing of extraordinary, real, substantial, and unanticipated change of circumstances.~~

(3) Issuance of an order pursuant to this subsection shall not affect the right of the custodial parent to seek child support from the noncustodial parent.

(4) Upon issuance of a rights and responsibilities order pursuant to this subsection, the court shall not issue a parent-child contact order and shall terminate any existing parent-child contact order concerning the child and the nonmoving parent. An order issued in accordance with this subdivision shall be permanent and shall not be subject to modification.

Sec. 8. 15 V.S.A. § 1103 is amended to read:

§ 1103. REQUESTS FOR RELIEF

* * *

(c)(1) ~~The Court~~ court shall make such orders as it deems necessary to protect the plaintiff or the children, or both, if the ~~Court~~ court finds that the defendant has abused the plaintiff, and:

(A) there is a danger of further abuse; or

(B) the defendant is currently incarcerated and has been convicted of one of the following: murder, attempted murder, kidnapping, domestic assault, aggravated domestic assault, sexual assault, aggravated sexual assault, stalking, aggravated stalking, lewd or lascivious conduct with a child, use of a child in a sexual performance, or consenting to a sexual performance.

(2) The court order may include the following:

(A) an order that the defendant refrain from abusing the plaintiff, or his or her children, or both, and from interfering with their personal liberty, including restrictions on the defendant's ability to contact the plaintiff or the plaintiff's children in person, by phone, or by mail, or both, in any way,

whether directly, indirectly or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, e-mail, or other electronic communication, and restrictions prohibiting the defendant from coming within a fixed distance of the plaintiff, the children, the plaintiff's residence, or other designated locations where the plaintiff or the plaintiff's children are likely to spend time;

* * *

Sec. 9. 15 V.S.A. § 1104 is amended to read:

§ 1104. EMERGENCY RELIEF

(a) In accordance with the Vermont Rules of Civil Procedure, temporary orders under this chapter may be issued ex parte, without notice to the defendant, upon motion and findings by the ~~Court~~ court that the defendant has abused the plaintiff or ~~his or her~~ the plaintiff's children, or both. The plaintiff shall submit an affidavit in support of the order. A minor 16 years of age or older, or a minor of any age who is in a dating relationship as defined in subdivision 1101(2) of this chapter, may seek relief on his or her own behalf. Relief under this section shall be limited as follows:

(1) Upon a finding that there is an immediate danger of further abuse, an order may be granted requiring the defendant:

(A) to refrain from abusing the plaintiff or his or her children, or both, or from cruelly treating as defined in 13 V.S.A. § 352 or 352a or killing any animal owned, possessed, leased, kept, or held as a pet by either party or by a minor child residing in the household;

(B) to refrain from interfering with the plaintiff's personal liberty, or the personal liberty of the plaintiff's children, or both; and

(C) to refrain from coming within a fixed distance of the plaintiff, the plaintiff's children, the plaintiff's residence, or the plaintiff's place of employment; and

(D) to refrain from contacting the plaintiff or the plaintiff's children, or both, in any way, whether directly, indirectly or through a third party, with the purpose of making contact with the plaintiff, including in writing or by telephone, e-mail, or other electronic communication.

* * *

Sec. 10. EFFECTIVE DATES

(a) This section and Secs. 1 (prohibited conduct), 6 (parent and child), 7 (rights and responsibilities order; best interests of the child), 8 (request for relief), and 9 (emergency relief) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2017.

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

An act relating to domestic and sexual violence.

H. 230

An act relating to consent by minors for mental health treatment related to sexual orientation and gender identity

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

Sec. 1. 18 V.S.A. chapter 196 is amended to read:

CHAPTER 196. ~~CONVERSION THERAPY~~ OUTPATIENT MENTAL HEALTH TREATMENT FOR MINORS

Subchapter 1. Consent by Minors for Mental Health Care

§ 8350. CONSENT BY MINORS FOR MENTAL HEALTH TREATMENT

A minor may give consent to receive any legally authorized outpatient treatment from a mental health professional, as defined in section 7101 of this title. Consent under this section shall not be subject to disaffirmance due to minority of the person consenting. The consent of a parent or legal guardian shall not be necessary to authorize outpatient treatment. As used in this section, “outpatient treatment” means psychotherapy and other counseling services that are supportive, but not prescription drugs.

Subchapter 2. Prohibition of Conversion Therapy

* * *

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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

An act relating to consent by minors for mental health treatment.

H. 308

An act relating to a committee to reorganize and reclassify Vermont’s criminal statutes

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

Sec. 1. 3 V.S.A. § 168 is added to read:

§ 168. RACIAL DISPARITIES IN THE CRIMINAL AND JUVENILE

JUSTICE SYSTEM ADVISORY PANEL

(a) The Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel is established. The Panel shall be organized and have the duties and responsibilities as provided in this section. The Panel shall be organized within the Office of the Attorney General and shall consult with the Vermont Human Rights Commission, the Vermont chapter of the ACLU, the Vermont Police Association, the Vermont Sheriffs' Association, the Vermont Association of Chiefs of Police, and others.

(b) The Panel shall comprise the following 13 members:

(1) five members, drawn from diverse backgrounds to represent the interests of communities of color throughout the State, who have had experience working to implement racial justice reform, appointed by the Attorney General;

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

(3) the Attorney General or designee;

(4) the Defender General or designee;

(5) the Executive Director of the State's Attorneys and Sheriffs or designee;

(6) the Chief Superior Judge or designee;

(7) the Commissioner of Corrections or designee;

(8) the Commissioner of Public Safety or designee; and

(9) the Commissioner for Children and Families or designee.

(c) The members of the Panel appointed under subdivision (b)(1) of this section shall serve staggered four-year terms. As terms of currently serving members expire, appointments of successors shall be in accord with the provisions of subsection (b) of this section. Appointments of members to fill vacancies or expired terms shall be made by the authority that made the initial appointment to the vacated or expired term. Members of the Panel shall be eligible for reappointment. Members of the Panel shall serve no more than two consecutive terms in any capacity.

(d) Members of the Panel shall elect biennially by majority vote the Chair of the Panel. Members of the Panel who are not State employees or whose participation is not supported through their employment or association shall receive per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010, to be provided by the Office of the Attorney General. The Office of the Attorney General shall provide the Panel with administrative and

professional support. The Panel may meet up to ten times per year.

(e) A majority of the members of the Panel shall constitute a quorum, and all action shall be taken upon a majority vote of the members present and voting.

(f) The Panel shall review and provide recommendations to address systemic racial disparities in statewide systems of criminal and juvenile justice, including:

(1) continually reviewing the data collected pursuant to 20 V.S.A. § 2366 to measure State progress toward a fair and impartial system of law enforcement;

(2) providing recommendations to the Criminal Justice Training Council and the Vermont Bar Association, based on the latest social science research and best practices in law enforcement and criminal and juvenile justice, on data collection and model trainings and policies for law enforcement, judges, correctional officers, and attorneys, including prosecutors and public defenders, to recognize and address implicit bias;

(3) providing recommendations to the Criminal Justice Training Council, based on the latest social science research and best practices in law enforcement, on data collection and a model training and policy on de-escalation and the use of force in the criminal and juvenile justice system;

(4) educating and engaging with communities, businesses, educational institutions, State and local governments, and the general public about the nature and scope of racial discrimination in the criminal and juvenile justice system;

(5) monitoring progress on the recommendations from the 2016 report of the Attorney General's Working Group on Law Enforcement Community Interactions; and

(6) on or before January 15, 2018, and biennially thereafter, reporting to the General Assembly, and providing as a part of that report recommendations to address systemic implicit bias in Vermont's criminal and juvenile justice system, including:

(A) how to institute a public complaint process to address perceived implicit bias across all systems of State government;

(B) whether and how to prohibit racial profiling, including implementing any associated penalties; and

(C) whether to expand law enforcement race data collection practices to include data on nontraffic stops by law enforcement.

Sec. 2. 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.

* * *

(4) The Criminal Justice Training Council shall, on an annual basis, report to the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel regarding:

(A) the adoption and implementation of the Panel's recommended data collection methods and trainings and policies pursuant to 3 V.S.A. § 168(f)(2) and (3);

(B) the incorporation of implicit bias training into the requirements of basic training pursuant to this subsection; and

(C) the implementation of all trainings as required by this subsection.

Sec. 3. SECRETARY OF ADMINISTRATION; PROPOSAL

The Secretary of Administration shall develop a proposal to identify and address racial disparities within the State systems of education, labor and employment, access to housing and health care, and economic development. The Secretary shall report on the proposal to the House and Senate Committees on Judiciary on or before January 15, 2018.

Sec. 4. 20 V.S.A. § 2366(f) is added to read:

(f) Nothing in this section is intended to prohibit or impede any public agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and 1644. To the extent any State or local law enforcement policy or practice conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, that policy or practice is, to the extent of the conflict, abolished.

Sec. 5. CRIMINAL JUSTICE TRAINING COUNCIL; FAIR AND IMPARTIAL POLICING POLICY

(a) On or before October 1, 2017, the Criminal Justice Training Council, in consultation with the Attorney General, shall review and modify the model fair and impartial policing policy to the extent necessary to bring the policy into compliance with 8 U.S.C. §§ 1373 and 1644.

(b) On or before January 1, 2018, 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 update its model fair and impartial policing policy to provide one cohesive model policy for law enforcement agencies and constables to adopt as a part of the agency's or constable's own fair and impartial policing policy pursuant to 20 V.S.A. § 2366(a)(1).

Sec. 6. 20 V.S.A. § 2366 is amended to read:

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

~~(a)(1) 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 create a model fair and impartial policing policy. On or before July 1, 2016~~ March 1, 2018, 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 each component of the Criminal Justice Training Council Council's model fair and impartial policing policy.

(2) On or before October 1, 2018, and every even-numbered year thereafter, the Criminal Justice Training Council, in consultation with others, including the Attorney General and the Human Rights Commission, shall review and, if necessary, update the model fair and impartial policing policy.

(b) To encourage consistent fair and impartial policing practices statewide, the Criminal Justice Training Council, in consultation with the Office of the Attorney General, shall review the policies of law enforcement agencies and constables required to adopt a policy pursuant to subsection (a) of this section, to ensure those policies establish each component of the model policy on or before April 15, 2018. If a the Council finds that a policy does not meet each component of the model policy, it shall work with the law enforcement agency or constable that is required to adopt a policy pursuant to subsection (a) of this section to bring the policy into compliance. If, after consultation with its attorney or with the Council, or with both, the law enforcement agency or constable fails to do so on or before July 1, 2016 adopt a policy that meets each component of the model policy, that agency or constable shall be deemed to have adopted, and shall follow and enforce, the model policy issued by the Criminal Justice Training Council.

(c) On or before September 15, 2014, and annually thereafter Annually, as part of their annual training report to the Council, every State, 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. The Criminal Justice Training Council shall determine, as part of the Council's annual certification of training requirements, 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~~ Annually on April 1, the Criminal Justice Training Council shall report to the House and Senate Committees on Judiciary regarding which departments and officers have adopted a fair and impartial policing policy, and whether officers have received training on fair and impartial policing.

* * *

Sec. 7. EFFECTIVE DATES

This act shall take effect on passage, except that Sec. 6 (law enforcement agencies; fair and impartial policing policy; race data collection) shall take effect on March 1, 2018.

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

An act relating to the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel.

H. 497

An act relating to health requirements for animals used in agriculture

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

Sec. 1. 6 V.S.A. chapter 63 is amended to read:

CHAPTER 63. ~~LIVESTOCK DEALERS~~ LIVESTOCK-RELATED BUSINESSES, AUCTIONS, AND SALES RINGS

§ 761. DEFINITIONS

As used in this chapter:

(1) "Livestock" means cattle, horses, sheep, swine, goats, camelids, fallow deer, red deer, reindeer, and American bison.

(2) "Livestock dealer" means a person going from place to place buying, selling, or transporting livestock, or operating a livestock auction or sales ring, either on ~~their~~ the person's own account or on commission, except ~~state breed associations recognized as such by the secretary of agriculture,~~

~~food and markets;~~

(A) a federal agency, including any department, division, or authority within the agency; or

(B) a nonprofit association approved by the Secretary.

(3) “Packer” means a livestock dealer who is solely involved in the purchase of livestock for purpose of slaughter at his or her own slaughter facility.

(4) “Person” means any individual, partnership, unincorporated association, or corporation.

(5) “Transporter” means a livestock dealer who limits his or her activity to transporting livestock for remuneration. A transporter cannot buy or sell livestock and is not required to be bonded.

§ 762. LICENSE; FEE

(a) A person shall not carry on the business of a livestock dealer, packer, or transporter without first obtaining a license from the Secretary of Agriculture, Food and Markets. Before the issuance of ~~such a license, such dealer~~ a person shall file with the Secretary an application for ~~such a license~~ a license on forms provided by the Agency. Each application shall be accompanied by a fee of \$175.00 for ~~persons who buy and sell or auction livestock, livestock dealers and packers~~ and \$100.00 for ~~persons who only transport livestock commercially~~ livestock transporters.

(b) The Secretary may deny any application for a ~~livestock dealer's~~ dealer, packer, or transporter license, after notice and an opportunity for a hearing, whenever the applicant is a person or a representative of a person who has had a ~~livestock dealer's~~ dealer, packer, or transporter license suspended or revoked by any state, including Vermont, or any foreign country during the preceding five years or who has been convicted of violating statutes, rules, or regulations of any state or the federal government pertaining to the sale or transportation of livestock or the control of livestock disease. The applicant shall be informed of any denial by letter, which shall include the specific reasons for the denial. The applicant shall have 15 days in which to petition the Secretary for reconsideration. The petition shall be submitted in writing, and the Secretary, in his or her discretion may hold a further hearing on the petition for reconsideration. Thereafter, the Secretary shall issue or deny the license and shall inform the applicant in writing of his or her decision and the reasons therefor.

(c) The Livestock Special Fund is established under and shall be administered pursuant to 32 V.S.A. chapter 7, subchapter 5. All funds received under this section shall be deposited in the Livestock Special Fund for

use by the Agency for administration of livestock programs.

§ 763. EXEMPTIONS FROM LICENSE

The provisions of section 762 of this title relative to requiring a license shall not apply to a farmer going from place to place buying or selling livestock in the regular operation of his or her farm business.

§ 764. BOND

~~(a) Each livestock dealer Before the Secretary issues a livestock dealer or packer license under this chapter, an applicant shall furnish the secretary Secretary with a surety bond in the amount of not less than \$10,000.00, executed by a surety company authorized to do business in this state, and a like surety bond in a like sum for each agent listed on the dealer's license application State.~~

~~(b) Before a license shall be issued to an applicant who conducts one or more livestock commission sales or auctions, such applicant shall furnish the secretary, in addition to any other bond required by this section, a surety bond, executed by a surety company authorized to do business in this state, covering all business in each location at which such applicant conducts a livestock auction or sales ring, in a principal amount to be determined by the secretary based on the volume of his purchases, but not to exceed \$150,000.00.~~ [Repealed.]

~~(c) All livestock dealers' and livestock auction bonds required under this section shall be in such the form as the secretary shall prescribe and shall be conditioned for compliance with the provisions of this chapter and for payment of all obligations of the licensee for purchases of livestock within this state. Any resident of this state injured by a harmful act of the licensee, his agents, servants, or operators shall have a cause of action in his own name on such bond for the damage sustained; provided, however, that the aggregate liability of the surety to all residents of this state shall in no event exceed the principal amount of the bond. required under 9 C.F.R. § 201.30, as amended over time. In lieu of a surety bond required under this section, the Secretary may accept a financial instrument or alternate form of surety authorized under 9 C.F.R. § 201.30.~~

~~(d) Before a license shall be issued to an applicant whose residence is outside Vermont, or to an applicant whose employer is not a resident of Vermont, such applicant shall furnish the secretary of agriculture, food and markets in addition to any other bond required by this section, a bond in the principal amount to be determined by the secretary based on the volume of his purchases, but not to exceed \$150,000.00 executed by a surety company authorized to do business in this state.~~ [Repealed.]

~~(e) The secretary may accept a livestock dealer surety bond issued under the Federal Packers and Stockyard Act instead of the bonds required under subsections (a), (b), and (c) of this section, provided that a copy of such bond is filed with the secretary and in an amount considered by the secretary to be sufficient. Where the coverage is considered insufficient the secretary may require additional bonding to the extent authorized under subsections (a), (b), and (c) of this section. [Repealed.]~~

~~(f) The secretary may accept, in lieu of a surety bond, a federal packers and stockyards administration trust fund agreement, or a packers and stockyards administration trust agreement that includes an irrevocable letter of credit. [Repealed.]~~

~~(g) The secretary may accept a federal packers and stockyards packers surety bond in lieu of a livestock dealers bond, but only on the condition that all livestock purchased by the packer in this state shall be slaughtered at the packer's facility. [Repealed.]~~

§ 764a. CLAIMS

~~Any claims on the licensee under section 764 of this title shall be filed by the claimant with the secretary of agriculture, food and markets within 120 days of date of sale. [Repealed.]~~

§ 765. EXEMPTIONS FROM BOND

~~A nonprofit cooperative association, organized under chapter 1 or 7 of Title 11, or similar laws of other states, shall not be required to furnish a bond as required in section 764 of this title. [Repealed.]~~

§ 767. POSSESSION OF LICENSE; FEES FOR COPIES; EXPIRATION DATE; LICENSES NOT TRANSFERABLE

~~(a) A livestock dealer, packer, or transporter shall keep a copy of such the license required under this chapter in his or her possession and one number plate of suitable design which shall be issued to such dealer by the secretary at the time of the issuance of such license shall be attached to each truck or other conveyance used by such dealer for the transportation of livestock. The number plate shall be attached to the vehicle as regulated by the agency of agriculture, food and markets. At the time of the initial issuance of the license, the Secretary shall issue to the dealer, packer, or transporter a unique vehicle plate for each applicable conveyance used by the licensee to contain or transport livestock. The dealer, packer, or transporter shall attach the vehicle plate to each applicable conveyance. All such plates shall be removed from the vehicles conveyance immediately after expiration of the license.~~

~~(b) Copies of licenses shall be obtained from the secretary of agriculture, food and markets and he or she shall charge a fee of \$2.50 for each copy.~~

[Repealed.]

(c) ~~All licenses issued under section 762 of this title shall take effect July 1, and expire on June 30, following. They may~~ A livestock dealer license, packer license, or transporter license shall not be transferred.

§ 768. DUTIES OF DEALERS, TRANSPORTERS, AND PACKERS

A livestock dealer, transporter, or packer licensed under section 762 of this title shall:

(1) Maintain in a clean and sanitary condition all premises, buildings, and conveyances used in the business of ~~dealing in~~ buying, selling, or transporting livestock or operating a livestock auction or sales ring;

(2) Submit premises, buildings, and conveyances to inspection and livestock to inspection and test at any and such times as the ~~secretary~~ Secretary may deem it necessary and advisable;

(3) Allow no livestock on livestock dealer's premises from herds or premises quarantined by the ~~secretary of agriculture, food and markets;~~ Secretary of Agriculture, Food and Markets.

(4) Maintain, subject to inspection by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets or his or her agent, a proper record in which all livestock purchased, repossessed, sold, or loaned are to be listed, giving breed, date purchased, repossessed, sold, or loaned and complete names and addresses from whom obtained and to whom delivered. Such record shall also show the individual identification of each livestock by a method prescribed for each species by rule by the secretary, except that for equine such record and method of individual identification shall be as prescribed under subchapter 2 of chapter 102 of this title compliant with applicable State and federal statutes, rules, and regulations specified by the Secretary, including the U.S. Department of Agriculture Animal Disease Traceability rule, 9 C.F.R. part 86.

(5) Abide by ~~such other reasonable rules and regulations which~~ that may be issued adopted by the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets to prevent the spread of disease. A copy of ~~such all applicable rules and regulations~~ shall be provided to all livestock dealers, packers, and transporters licensed under the terms of section 762 of this title, at the time they first obtain a license.

(6) Pay the seller within 72 hours following the sale of the animal or animals.

(7) ~~Not simultaneously transport brucellosis-free and diseased and suspect cattle, except when all the animals are being transported directly to a~~

slaughtering facility. [Repealed.]

§ 769. CANCELLATION OF LICENSE

Failure of any livestock dealer, transporter, or packer to abide by the terms of this chapter, or of any of the State or federal laws, rules, or regulations relating to livestock, or of ~~such a procedure as that the secretary of agriculture, food and markets deems~~ Secretary of Agriculture, Food and Markets adopts as necessary to prevent the spread of disease, shall be deemed sufficient cause after notice and hearing for the cancellation of a license issued under section 762 of this title.

§ 770. PENALTY

Any livestock dealer, transporter, or packer who buys, sells, or transports livestock in this state State or operates a livestock auction or sales ring without having a license so to do, issued either to such person or to the firm or corporation ~~which that he or she~~ represents in conducting such business, as herein required, shall be ~~fined not less than \$100.00 nor more than \$500.00 or be imprisoned not less than 30 days nor more than 90 days, or both~~ assessed an administrative penalty under section 15 of this title.

§ 772. ~~SALE OF FOALS~~

~~(a) A person shall not buy, sell, transfer ownership of, or transport any equine foal less than six months old, except with its dam, unless such foal is naturally weaned or unless for immediate slaughter. For purposes of this section, a colt shall be considered "naturally weaned" if it is capable of subsisting apart from its dam.~~

~~(b) Failure to comply with this section is a violation of 13 V.S.A. § 352(3). [Repealed.]~~

Sec. 2. 6 V.S.A. chapter 64 is amended to read:

CHAPTER 64. LIVESTOCK CARE STANDARDS
ADVISORY COUNCIL

§ 791. DEFINITIONS

As used in this chapter:

(1) "Agency" means the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets.

(2) "Council" means the ~~livestock care standards advisory council~~ Livestock Care Standards Advisory Council.

(3) "Livestock" means cattle, calves, sheep, swine, horses, mules, goats, fallow deer, American bison, poultry, and any other animal that can or may be

used in and for the preparation of meat, fiber, or poultry products.

(4) “Secretary” means the ~~secretary of agriculture, food and markets~~ Secretary of Agriculture, Food and Markets.

§ 792. ESTABLISHMENT OF LIVESTOCK CARE STANDARDS
ADVISORY COUNCIL

(a) There is established a ~~livestock care standards advisory council~~ the Livestock Care Standards Advisory Council for the purposes of evaluating the laws of the ~~state~~ State and of providing policy recommendations regarding the care, handling, and well-being of livestock in the ~~state~~ State. The ~~livestock care standards advisory council~~ Livestock Care Standards Advisory Council shall be composed of the following members, all of whom shall be residents of Vermont:

(1) The ~~secretary of agriculture, food and markets~~ Secretary, who shall serve as the ~~chair~~ Chair of the ~~council~~ Council.

(2) The ~~state veterinarian~~ State Veterinarian.

(3) The following six members appointed by the ~~governor~~ Governor:

(A) A person with knowledge of food safety and food safety regulation in the ~~state~~ State.

(B) A person from a statewide organization that represents the beef industry.

(C) A Vermont licensed livestock or poultry veterinarian.

(D) A representative of an agricultural department of a Vermont college or university.

(E) A representative of the Vermont slaughter industry.

(F) A representative of the Vermont livestock dealer, hauler, or auction industry.

(4) The following three members appointed by the ~~committee on committees~~ Committee on Committees:

(A) A producer of species other than bovidae.

(B) An operator of a medium farm or large farm permitted by the ~~agency~~ Agency.

(C) A professional in the care and management of equines and equine facilities.

(5) The following three members appointed by the ~~speaker of the house~~ Speaker of the House:

(A) An operator of a small Vermont dairy farm.

(B) A representative of a local humane society or organization from Vermont ~~registered with the agency~~ and organized under state State law.

(C) A person with experience investigating charges of animal cruelty involving livestock, provided that no such person who has received or is receiving compensation from a national humane society or organization may be appointed under this subdivision.

(b) Members of the ~~board~~ Council shall be appointed for staggered terms of three years. Except for the ~~chair~~ Chair, the ~~state veterinarian~~ State Veterinarian, and the representative of the agricultural department of a Vermont college or university, no member of the ~~council~~ Council may serve for more than ~~six~~ two consecutive years full terms. Eight members of the ~~council~~ Council shall constitute a quorum. If a vacancy on the Council occurs, a new member shall be appointed, in the same manner that his or her predecessor was appointed, to fill the unexpired term.

(c) With the concurrence of the ~~chair~~ Chair, the ~~council~~ Council may use the services and staff of the ~~agency~~ Agency in the performance of its duties.

§ 793. POWERS AND DUTIES OF LIVESTOCK CARE STANDARDS ADVISORY COUNCIL

(a) The Council shall:

(1) Review and evaluate the laws and rules of the State applicable to the care and handling of livestock. In conducting the evaluation required by this section, the Council shall consider the following:

(A) the overall health and welfare of livestock species;

(B) agricultural best management practices;

(C) biosecurity and disease prevention;

(D) animal morbidity and mortality data;

(E) food safety practices;

(F) the protection of local and affordable food supplies for consumers; and

(G) humane transport and slaughter practices.

(2) Submit policy recommendations to the Secretary on any of the subject matter set forth under subdivision (1) of this subsection. A copy of the policy recommendations submitted to the Secretary shall be provided to the House Committee on Agriculture and ~~Forest Products~~ Forestry and the Senate Committee on Agriculture. Recommendations may be in the form of proposed

legislation. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.

(3) Meet at least annually and at such other times as the Chair determines to be necessary.

(4) Submit minutes of the Council annually, on or before January 15, to the House Committee on Agriculture and ~~Forest Products~~ Forestry and the Senate Committee on Agriculture. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subdivision.

(b) The Council may engage in education and outreach activities related to the laws and regulations for the care and handling of livestock. The Council may accept funds from public or private sources in compliance with 32 V.S.A. § 5.

Sec. 3. 6 V.S.A. chapter 102 is amended to read:

CHAPTER 102. CONTROL OF CONTAGIOUS LIVESTOCK DISEASES

Subchapter 1. General Provisions

§ 1151. DEFINITIONS

As used in this part:

(1) “Accredited veterinarian” means a veterinarian approved by the ~~United States~~ U.S. Department of Agriculture and the ~~state veterinarian~~ State Veterinarian to perform functions specified by cooperative state-federal disease control programs.

(2) “Animal” or “domestic animal” means cattle, sheep, goats, equines, deer, American bison, swine, poultry, pheasant, Chukar partridge, Coturnix quail, psittacine birds, ferrets, camelids, ratites (ostriches, rheas, and emus), and water buffalo. The term shall include cultured ~~trout~~ fish propagated by commercial ~~trout~~ fish farms.

(3) “Approved slaughterhouse” means an establishment maintained by a slaughterer under ~~state~~ State or federal law.

(4) “Camelids” means any animal of the family camelidae, including, ~~but not limited to,~~ guanacos, vicunas, camels, alpacas, and llamas.

(5) “Coggins test” means the agar gel immunodiffusion blood test conducted in a laboratory approved by the ~~United States~~ U.S. Department of Agriculture and the ~~secretary~~ Secretary.

(6) “Secretary” ~~means the Vermont secretary of agriculture, food and~~

markets, or his or her designee.

~~(7)~~ “Contagious disease,” ~~“communicable disease,”~~ “infectious disease,” or “disease” means any disease found in domestic animals which that is capable of directly or indirectly spreading from one domestic animal to another ~~with or without actual contact~~. “Contagious disease” includes, ~~but is not limited to,~~ all reportable diseases.

~~(8)~~(7) “Deer” means any member of the family cervidae except for white-tailed deer and moose.

(8) “Domestic fowl” or “poultry” means all domesticated birds of all ages that may be used as human food, or which produce eggs that may be used as human food, excluding those birds protected by 10 V.S.A. part 4.

(9) “Equine animal” means any member of the family equidae, including, ~~but not limited to,~~ horses, ponies, mules, asses, and zebra zebras.

~~(10)~~ “Equine infectious anemia” ~~means swamp fever, the disease of equine animals spread by blood sucking insects and unsterile surgical instruments or equipment that produces cuts or abrasions.~~

~~(11)~~ “Red deer” ~~means domesticated deer of the family cervidae, subfamily cervinae, genus Cervus, species elaphus.~~

~~(12)~~ “Fallow deer” means domesticated deer of the genus Dama, species dama.

~~(13)~~ “Ferret” means ~~only the European ferret Mustela putorius furo.~~

(11) “Red deer” means domesticated deer of the family cervidae, subfamily cervidae, genus Cervus, species elaphus.

(12) “Reactor” means an animal that tests positive to any official test required under this chapter.

~~(14)~~(13) “Reportable disease” means any disease determined included in the National List of Reportable Animal Diseases and any disease required by the secretary Secretary by rule to be a reportable disease or contained in the following list:

- ~~(A) Poultry Diseases:~~
- ~~(B) Avian Influenza~~
- ~~(C) Fowl Cholera~~
- ~~(D) Infectious laryngotracheitis~~
- ~~(E) Mycoplasma Galliseptium~~
- ~~(F) Newcastle disease~~

- ~~(G) Mycoplasma Synoviae~~
- ~~(H) Psittacosis (Chlamydiosis)~~
- ~~(I) Salmonella:~~
 - ~~(i) pullorum~~
 - ~~(ii) typhimurium~~
 - ~~(iii) other salmonellas~~
- ~~(J) Livestock Diseases:~~
- ~~(K) African Swine Fever~~
- ~~(L) Anaplasmosis~~
- ~~(M) Anthrax~~
- ~~(N) Any Vesicular Disease:~~
 - ~~(i) foot and mouth disease~~
 - ~~(ii) swine vesicular disease~~
 - ~~(iii) vesicular stomatitis~~
 - ~~(iv) vesicular exanthema~~
- ~~(O) Bluetongue~~
- ~~(P) Brucellosis~~
- ~~(Q) Cystercercosis~~
- ~~(R) Dourine~~
- ~~(S) Equine Encephalomyelitis~~
- ~~(T) Equine Infectious Anemia~~
- ~~(U) Hog Cholera~~
- ~~(V) Paratuberculosis (Johne's disease), positive organism detection~~
- ~~(W) Piroplasmosis~~
- ~~(X) Pleuropneumonia~~
- ~~(Y) Pseudorabies~~
- ~~(Z) Rabies~~
- ~~(AA) Rinderpest~~
- ~~(BB) Scabies:~~
 - ~~(i) sarcoptic (cattle)~~

- (ii) ~~psoroptic (cattle and sheep)~~
- (CC) ~~Scrapie (sheep)~~
- (DD) ~~Screwworms~~
- (EE) ~~Bovine Tuberculosis~~
- (FF) ~~Malignant Catarrhal Fever~~
- (GG) ~~Transmissible spongiform encephalopathies~~

(15) ~~“Deer” means any member of the family cervidae except for white-tailed deer and moose to be reportable.~~

(14) ~~“Secretary” means the Secretary of Agriculture, Food and Markets or designee.~~

§ 1152. ADMINISTRATION; INSPECTION; TESTING

(a) ~~The secretary~~ Secretary shall be responsible for the administration and enforcement of the livestock disease control program. ~~The secretary~~ Secretary may appoint the ~~state veterinarian~~ State Veterinarian to manage the program, and other personnel as are necessary for the sound administration of the program.

(b) ~~The secretary~~ Secretary shall maintain a public record of all permits issued and of all animals tested by the Agency of Agriculture, Food and Markets under this chapter for a period of ~~three~~ five years.

(c) ~~The secretary~~ Secretary may conduct any inspections, investigations, tests, diagnoses, or other reasonable steps necessary to discover and eliminate contagious diseases existing in domestic animals ~~or cultured trout~~ in this ~~state~~ State. The Secretary shall investigate any reports of diseased animals, provided there are adequate resources. In carrying out the provisions of this part, the Secretary or his or her authorized agent may enter any real estate, premises, buildings, enclosures, or areas where animals may be found for the purpose of making reasonable inspections and tests. A livestock owner or the person in possession of the animal to be inspected, upon request of the Secretary, shall restrain the animal and make it available for inspection and testing.

(d) ~~The secretary~~ Secretary may contract and cooperate with the ~~United States~~ U.S. Department of Agriculture ~~and~~, other federal agencies or ~~other states,~~ and accredited veterinarians for the control and eradication of contagious diseases of animals. ~~The secretary~~ Secretary shall consult and cooperate, as appropriate, with the ~~commissioner of fish and wildlife and the commissioner of health~~ Commissioners of Fish and Wildlife and of Health regarding the control of contagious diseases.

(e) If necessary, the ~~secretary~~ Secretary shall set priorities for the use of the funds available to operate the program established by this chapter.

~~(f) The taking and possessing of an animal which is imported, possessed, or confined for the purpose of hunting shall be regulated by the fish and wildlife board and commissioner of fish and wildlife under the provisions of part 4 of Title 10. However, the secretary shall have jurisdiction over the animal for the purposes described in section 1153 of this title. Records produced or acquired by the Secretary under this chapter shall be available to the public, except that the Secretary may withhold or redact a record to the extent needed to avoid disclosing directly or indirectly the identity of individual persons, households, or businesses.~~

§ 1153. RULES

(a) The Secretary shall adopt rules necessary for the discovery, control, and eradication of contagious diseases and for the slaughter, disposal, quarantine, vaccination, and transportation of animals found to be diseased or exposed to a contagious disease. The Secretary may also adopt rules requiring the disinfection and sanitation of real estate, buildings, vehicles, containers, and equipment ~~which~~ that have been associated with diseased livestock.

(b) The Secretary shall adopt rules establishing fencing and transportation requirements for deer.

(c) The Secretary shall adopt rules necessary for the inventory, registration, tracking, and testing of deer.

§ 1154. INSPECTION AND TESTING

~~(a) The secretary may routinely inspect all domestic animals in the state for contagious diseases.~~

~~(b) The secretary shall investigate any reports of diseased animals, provided there are adequate resources.~~

~~(c) In carrying out the provisions of this part, the secretary, or his or her authorized agent, may enter any real estate, premises, buildings, enclosures, or areas where animals may be found for the purpose of making reasonable inspections and tests.~~

~~(d) A livestock owner or the person in possession of the animal to be inspected, upon request of the secretary, shall restrain the animal and make it available for inspection and testing. [Repealed.]~~

§ 1154a. TESTING OF CULTURED FISH AND FEE FISHING BUSINESSES

(a) Health testing of cultured fish ~~shall~~ may be provided to commercial fish

farms and fee fishing businesses through an aquaculture inspection program conducted jointly by the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets and the ~~department of fish and wildlife~~ Department of Fish and Wildlife, in accordance with any memorandum of understanding between the ~~agency~~ Agency and ~~department~~ Department prepared for this purpose as required by ~~Sec. 88 of No. 50 of the Acts of 1991~~ Acts and Resolves No. 50, Sec. 88. Such testing shall be at no charge to the commercial fish farm or fee fishing business. The testing shall be funded jointly from the operating budgets of the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets and the ~~department of fish and wildlife~~ Department of Fish and Wildlife.

~~(b) A commercial fish farm shall, before commencing operation obtain a breeder's license from the commissioner of fish and wildlife as required by 10 V.S.A. § 5207.~~

§ 1155. ~~TUBERCULOSIS TESTING~~

~~All cattle, red deer, fallow deer, and reindeer within the state shall be tested for tuberculosis on a periodic basis. The secretary shall annually designate a list of towns within which all test eligible cattle are to be tested. [Repealed.]~~

* * *

§ 1157. QUARANTINE

(a) The ~~secretary~~ Secretary may order any domestic animals, the premises upon which they are or have been located, any animal products derived from those domestic animals, and any equipment, materials, or products to which they have been exposed to be placed in quarantine if the animals:

- (1) are affected with a contagious disease;
- (2) have been exposed to a contagious disease;
- (3) may be infected with or have been exposed to a contagious disease;

(4) are suspected of having biological or chemical residues, including antibiotics, in their tissues ~~which that~~ that would cause the carcasses of the animals, if slaughtered, to be adulterated within the meaning of chapter 204 of this title; or

(5) are owned or controlled by a person who has violated any provision of this part, and the ~~secretary~~ Secretary finds that a quarantine is necessary to protect the public welfare.

(b) Once a quarantine has been ordered, no animal under quarantine shall be removed from the premises where it is located. The ~~secretary~~ Secretary may limit or prevent other animals from being brought onto the same premises

as the quarantined animal.

(c) A verbal quarantine order shall be effective immediately. Notice Written notice of quarantine shall be delivered by certified mail, registered mail, or in person to the owner of the animals or to the person in possession of the animals, or if the owner or person in possession is unknown, by publication in a newspaper of general circulation in the area. The notice shall include:

- (1) a description of the subject of the quarantine;
- (2) an explanation of why the quarantine is necessary;
- (3) the duration of the quarantine, or what condition must be met to lift the quarantine, including conditions for the repopulation of the premises and disinfection of equipment, materials, and products;
- (4) the terms of the quarantine;
- (5) the name and address of the person to be contacted for further information; and
- (6) a statement that the person may request a hearing on the quarantine order.

(d) The ~~secretary~~ Secretary may use placards or any other method deemed necessary to give notice or warning to the general public of the quarantine.

(e) Within 15 days of receiving notice, a person subject to a quarantine order may request a hearing to be held by the ~~secretary~~ Secretary. The hearing shall be held within 60 days from the date of the request unless the ~~secretary~~ Secretary has determined that a longer period is necessary because of the extent of the outbreak of disease, in which case the hearing shall be held as soon as practicable. A request for a hearing shall not stay the quarantine order.

(f) It shall be unlawful to violate the terms of a quarantine order issued pursuant to this section. Any person who knowingly violates a quarantine order shall be subject to a fine of not more than \$5,000.00, or imprisonment for not more than six months, or both. Any person who knowingly violates a quarantine order and causes the spread of a contagious disease beyond the quarantined premises shall be subject to a fine of not more than \$15,000.00, or imprisonment of for not more than two years, or both.

§ 1158. QUARANTINE ~~DISTRICT~~ ZONE

(a) The ~~secretary~~ Secretary may establish a quarantine ~~district~~ zone whenever it is determined that a contagious disease is widely spread throughout an area of the state State and that a quarantine ~~district~~ zone is necessary to contain or prevent the further spread of the disease.

(b) In establishing a quarantine ~~district~~ zone, the ~~secretary~~ Secretary may,

by order:

(1) regulate, restrict, or restrain movements of animals, animal products, or vehicles and equipment associated with animals or animal products into, out of, or within the district zone;

(2) detain all animals within the ~~district~~ which zone that might be infected with or have been exposed to the disease for examination at any place specified by the quarantine order; and

(3) take other necessary steps to prevent the spread of and eliminate the disease within the quarantine ~~district~~ zone.

(c) The ~~secretary~~ Secretary shall notify the public of the existence, location, and terms of a quarantine ~~district~~ zone, in a manner deemed appropriate under the circumstances. ~~To the extent that such notice is possible, the secretary shall~~ The Secretary may also notify by certified mail or in person, the owner or person in possession of any animal or animals which must be detained or otherwise regulated within the ~~district~~ zone.

(d) It shall be unlawful to violate the terms of a quarantine ~~district~~ zone order issued pursuant to this section. Any person who knowingly violates a quarantine ~~district~~ zone order shall be subject to a fine of not more than \$5,000.00, or imprisonment for not more than six months, or both. Any person who knowingly violates a quarantine ~~district~~ zone order and causes the spread of a contagious disease beyond the quarantine ~~district~~ zone shall be subject to a fine of not more than \$15,000.00, or imprisonment ~~of~~ for not more than two years, or both.

§ 1159. DISPOSAL OF DISEASED ANIMALS

(a) The ~~secretary~~ Secretary may condemn and order destroyed any animal that is infected with or has been exposed to a contagious disease. An order to destroy an animal shall be based on a determination that the destruction of the animal is necessary to prevent or control the spread of the disease. The ~~secretary~~ Secretary shall order any condemned animal to be destroyed and disposed of in accordance with approved methods ~~as specified by rule~~. The ~~secretary's~~ Secretary's order may extend to some or all of the animals on the affected premises.

(b) The ~~secretary~~ Secretary may order that any real property, building, vehicle, piece of equipment, container, or other article associated with a diseased animal be disinfected and sanitized. Any cost of disinfection incurred by the ~~secretary~~ Secretary shall be deducted from any compensation paid to an animal owner under this section.

(c) The ~~secretary~~ Secretary may compensate the owner of any cattle domestic animal destroyed pursuant to this chapter because of exposure to or

~~infection with brucellosis or tuberculosis contagious disease. Payment shall not exceed two-thirds of the difference between the salvage value and the appraised value of the animal, and in no event exceed \$250.00 for each purebred or \$200.00 for each grade animal. The Secretary, after consultation with the U.S. Department of Agriculture, shall determine the necessity for and amount of compensation on a case-by-case basis.~~

~~(d) The secretary may compensate the owner of any swine destroyed pursuant to this chapter because of exposure to or infection with brucellosis or tuberculosis. Payment shall not exceed two-thirds of the difference between the salvage value and the appraised value of the animal, and in no event exceed \$40.00 for each purebred or \$20.00 for each grade swine.~~

~~(e) The secretary may compensate the owner of deer destroyed pursuant to this chapter because of exposure to or infection with brucellosis, tuberculosis, or transmissible spongiform encephalopathies. Payment shall not exceed two-thirds of the difference between the salvage value and the appraised value of the animal, and in no event shall exceed \$250.00 per animal.~~

~~(f) Compensation under this section shall only be paid where when:~~

~~(1) the owner of an animal destroyed for brucellosis is in compliance with the recommended uniform methods and rules of the state and federal cooperative brucellosis program;~~

~~(2) the agency Agency of Agriculture, Food and Markets has determined the origin of all animals on the premises containing the condemned animal;~~

~~(3)(2) all other state applicable State or federal livestock laws statutes, rules, or regulations have been complied with by the owner or person in possession of the animal;~~

~~(4)(3) there are sufficient state State funds appropriated for this purpose; and~~

~~(5)(4) in the case of a person who has made a claim for compensation under this section within the previous two years, the secretary Secretary determines that adequate measures were taken to prevent the reintroduction of contagious diseases into that person's herd or flock.~~

~~(g) Payments made pursuant to this section shall be in addition to any compensation paid to the owner by the federal government. The secretary may make additional payments for destroyed animals where federal regulations do not provide for compensation. Additional payments shall not exceed \$100.00 for each purebred animal and \$50.00 for each grade animal.~~

~~(h)(e) It shall be unlawful to violate the terms of an order issued pursuant~~

to subsection (a) or (b) of this section. Any person who knowingly violates an order issued pursuant to subsection (a) or (b) of this section shall be subject to a fine of not more than \$5,000.00, or imprisonment for not more than six months, or both. Any person who knowingly violates an order issued pursuant to subsection (a) or (b) of this section and causes the spread of a contagious disease shall be subject to a fine of not more than \$15,000.00, or imprisonment ~~of~~ for not more than two years, or both.

~~(i)~~(f) A destruction order, whether verbal or written, shall take effect immediately on notice to the owner or the person in possession of the animal or animals, if the owner or person in possession is known. The notice shall be given by certified mail or in person. Within 15 days of receiving the notice, the owner or person in possession may request a hearing to be held by the secretary Secretary. The hearing shall be held within 60 days from the date of the request unless the secretary Secretary has determined that a longer period is necessary because of the extent of the outbreak of disease, in which case the hearing shall be held as soon as practicable. A request for a hearing shall not stay the destruction order.

§ 1160. ~~APPROPRIATIONS;~~ EMERGENCY OUTBREAK OF CONTAGIOUS DISEASE

~~(a) In addition to funds appropriated to carry out the purposes of this chapter, all fees and charges collected under this chapter and any amount received by the state from the sale of condemned animals shall be used to carry out the provisions of this chapter.~~

(b) In case of the outbreak within this state State of some contagious disease of domestic animals, or whenever there is reason to believe that there is danger of the introduction into the state State of any contagious disease prevailing among domestic animals outside the state State, the secretary Secretary may take ~~such~~ such action and ~~issue such~~ adopt emergency rules as ~~are~~ necessary to prevent the introduction or spread of the disease.

§ 1161. FEES FOR TESTING

~~(a) The secretary Secretary may assess fees necessary to cover the cost of testing poultry domestic animals for contagious diseases.~~

~~(b) The secretary may negotiate appropriate compensation with those licensed veterinarians acting at his or her request. At minimum, these fees shall be \$5.00 for each farm at which the veterinarian performs a tuberculosis test on an animal, \$.75 for each animal tested in a stanchion barn, and \$1.50 for each animal tested in a loose-housing barn.~~

~~(c) The secretary may negotiate appropriate compensation with those licensed veterinarians acting at his or her request to test red deer, fallow deer,~~

~~or reindeer for tuberculosis. At minimum, these fees shall be \$25.00 for each farm at which the veterinarian performs a tuberculosis test on such deer and \$5.00 for each deer tested.~~

§ 1162. REPORT OF DISEASE

~~(a) All accredited veterinarians and persons operating animal disease diagnostic laboratories shall immediately report the discovery of any domestic animal within this state which State that is infected with, is suspected of being infected with, or has been exposed to a reportable disease as specified by this chapter. A veterinarian shall immediately report any sudden unexplained morbidity or mortality in a herd or flock located within the State. The report shall be made to the state veterinarian State Veterinarian and shall specify the location physical address where the animal is located; identification and description of the animal; the disease involved, or condition suspected or diagnosed; and the name and, mailing address, and telephone number of the owner or person in possession of the animal.~~

~~(b) All persons operating diagnostic laboratories shall immediately report the diagnosis of any domestic animal within this State that has a reportable disease as specified by this chapter. The report shall be made to the State Veterinarian and, in addition to the information required under subsection (a) of this section, shall include a copy of the test chart pertaining to the animal in question.~~

§ 1163. ADDITIONAL VIOLATIONS

~~(a) A person who knowingly commits any of the following acts shall be imprisoned not more than six months, or fined not more than \$5,000.00, or both assessed an administrative penalty under section 15 of this title for:~~

~~(1) to transport transporting an animal affected with, or exposed to, a contagious disease without first obtaining the permission of the secretary Secretary;~~

~~(2) to interfere interfering with any animal disease test conducted pursuant to this chapter;~~

~~(3) to advertise, sell, or offer for sale as accredited tuberculosis-free or certified brucellosis-free, any cattle which do not come from herds officially accredited or certified by the secretary or the United States Department of Agriculture;~~

~~(4) to advertise, sell, or offer advertising, selling, or offering for sale as tested under state State or federal supervision any cattle which do domestic animal that does not come from herds that are under state State or federal supervision;~~

~~(5)(4)~~ ~~to fail~~ failing to report the discovery of a reportable disease as required by section 1162 of this title;

~~(6)(5)~~ ~~to interfere~~ interfering with or ~~hinder~~ hindering the work of the ~~secretary~~ Secretary or his or her agents pursuant to this chapter.

(b) A person who knowingly commits any of the following acts shall be imprisoned not more than two years, or fined not more than \$15,000.00, or both for:

(1) ~~to import~~ importing into this state State any animal infected with or exposed to a contagious disease;

(2) ~~to sell, or offer~~ selling or offering for sale for food purposes any animal, or animal carcass, condemned under the provisions of this chapter, unless the animal is inspected and approved for use as human food by an agent of the Secretary or the ~~United States~~ U.S. Department of Agriculture.

§ 1164. CIVIL PENALTIES

(a) A person who violates any provision of this chapter or the rules adopted under this chapter, or who commits any of the acts described in section 1163 of this title shall ~~in addition to any other penalty be subject to a civil penalty of not more than \$5,000.00~~ be assessed an administrative penalty under section 15 of this title. Each violation shall be a separate and distinct offense and, in the case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct offense. ~~In no event shall the cumulative penalty exceed \$25,000.00 per occurrence.~~

(b) The ~~secretary~~ Secretary may, in the name of the ~~agency~~ Agency of Agriculture, Food and Markets, obtain a temporary or permanent injunction to restrain a violation of this chapter.

(c) After notice and opportunity for hearing, the ~~secretary~~ Secretary may suspend or revoke any license issued pursuant to chapters 63 and 65 of this title for any violation of this chapter.

§ 1165. TESTING OF CAPTIVE DEER

(a) Definitions. As used in this section:

(1) "Captive deer operation" means a place where deer are privately or publicly maintained, in an artificial manner, or held for economic or other purposes within a perimeter fence or confined space.

(2) "Chronic wasting disease" or "CWD" means a transmissible spongiform encephalopathy.

(b) Testing. A person operating a captive deer operation under the jurisdiction of the Secretary of Agriculture, Food and Markets shall inform the

Secretary when a captive deer in his or her control dies or is sent to slaughter. The person operating the captive deer operation shall make the carcass of a deceased or slaughtered animal available to the Secretary for testing for CWD.

(c) Cost. The cost of CWD testing required under this section shall be paid by the Secretary, and shall not be assessed to the person operating the captive deer operation from which a tested captive deer originated.

Subchapter 2. Equine Infectious Anemia

§ 1181. CERTIFICATION REQUIRED

(a) Any equine animal imported into the ~~state~~ State or transported through the ~~state~~ State shall be accompanied by a ~~certificate of veterinarian inspection~~ Certificate of Veterinarian Inspection. The certificate shall state that the equine animal has been tested negative to equine infectious anemia (EIA) by an accredited veterinarian.

(b) Any equine animal purchased, sold, offered for sale, bartered, exchanged, or given away within the ~~state~~ State, or imported for one of these purposes, shall be tested by an accredited veterinarian and certified as negative to equine infectious anemia in accordance with rules adopted by the ~~secretary~~ Secretary as provided by subsection (f) of this section. A test for equine infectious anemia shall not be required ~~where~~ when:

(1) the transfer of ownership is between the owner of the animal and his or her spouse, child, or sibling and where the animal is not moved to new premises;

~~(2) the transfer of ownership is between the owner of the animal and a livestock dealer and is conducted in accordance with such rules as the secretary may adopt to ensure that an untested animal does not expose other horses to equine infectious anemia; or~~

~~(3)~~(2) the animal is consigned directly to slaughter.

(c) Whenever the ~~secretary~~ Secretary has reason to believe that any equine animal has been exposed to equine infectious anemia and that the animal may pose a threat to other equine animals, the ~~secretary~~ Secretary may require that the animal be tested for equine infectious anemia by an accredited veterinarian or ~~full-time state~~ State or federal ~~employee~~ veterinarian approved by the Secretary.

(d) The ~~secretary~~ Secretary may require by rule that any equine animal transported to any fair, show, competition, or other gathering of equine animals be accompanied by a certificate ~~which~~ that states that the equine animal has been tested and found negative to equine infectious anemia.

(e) The ~~secretary~~ Secretary shall establish by rule the form and manner of

required certifications and the periods of time within which testing and certification of equine animals shall be accomplished.

(f) The ~~secretary~~ Secretary shall adopt rules pursuant to 3 V.S.A. chapter 25, for the purchase by a livestock dealer for resale or for slaughter, of equine not known to be tested for equine infectious anemia, as authorized by subsection (b) of this section. The rules shall include specifications governing equine quarantine facilities, procedures for equine animals of unknown EIA status intended for resale to be retested, procedures for handling equine animals of unknown EIA status purchased for slaughter, and ~~record-keeping~~ record-keeping requirements for livestock dealers.

§ 1182. TESTING OF EQUINE ANIMALS

(a) Testing of equine animals for equine infectious anemia shall be done by an accredited ~~graduate~~ veterinarian licensed in the State by means of a Coggins test or other test acceptable to the ~~secretary~~ Secretary, at the owner's expense.

(b) Any equine animal found to be a reactor by means of a test under subsection (a) of this section shall be administered a second test ~~within 72 hours of receipt of the results of the first test~~ in accordance with the applicable State and federal statutes, rules, or regulations.

(c) Any equine animal found to be a reactor shall be quarantined in accordance with instructions of the ~~secretary~~ Secretary between receipt of the results of the first and second tests. Any equine animal found to be a reactor to a second test shall continue to be quarantined until adequate arrangements are made for disposition of the animal in accordance with section 1183 of this title.

(d) Any veterinarian who identifies an equine animal as a reactor shall report that animal to the ~~secretary~~ Secretary in a form and manner to be prescribed by rule of the ~~secretary~~ Secretary.

~~(e) The secretary shall notify veterinarians and owners of equine animals in the immediate area of the location of the diseased animal. The immediate area shall be defined by the secretary as necessary to meet the specific circumstances created by the diseased animal.~~

§ 1183. DISPOSITION OF REACTORS

(a) Any equine animal identified as a reactor through testing as provided in subsections 1182(a) and (b) of this title shall be humanely destroyed within seven days of the second test. The destruction of the animal shall be by an ~~accredited graduate~~ a licensed veterinarian, or by any other person if and shall be observed by the ~~secretary~~ Secretary or an agent of the ~~United States~~ U.S. Department of Agriculture.

(b) Notwithstanding the provisions of subsection (a) of this section, a reactor may be transported to an approved slaughterhouse or research facility where authorized by written permission of the ~~secretary~~ Secretary. In granting permission, the ~~secretary~~ Secretary may specify the conditions under which the animal shall be quarantined, transported, and destroyed.

(c) Any ~~person, including an accredited graduate~~ licensed veterinarian, who destroys any equine animal in accordance with the provisions of this section shall immediately report the destruction of the animal to the ~~secretary~~ Secretary ~~within seven days~~.

(d) As an alternative to the destruction of animals under the provisions of subsections (a) and (b) of this section, reactors may be isolated permanently under quarantine from all other equine animals and shall be conspicuously freezebranded with the letters "EIA." In no case shall this action be delayed for more than two weeks. The quarantine shall apply to all equine animals on the premises where the reactor is located, and shall remain in effect until the reactor is destroyed or isolated under quarantine and the remaining equine animals are tested and found to be negative.

(e) The provisions of this section shall be implemented by rule of the ~~secretary~~ Secretary.

§ 1184. PENALTIES

~~Any person who violates subsection 1183(a) of this title shall be fined not less than \$500.00 nor more than \$2,500.00. Any person who violates the provisions of section 1181, 1182, or subsection 1183(b), (c), or (d) of this title shall be fined not more than \$500.00~~ shall be assessed an administrative penalty under section 15 of this title.

Sec. 4. 6 V.S.A. chapter 107 is amended to read:

CHAPTER 107. IMPORTS AND EXPORTS MOVEMENT OF LIVESTOCK AND POULTRY

§ 1459. DEFINITIONS

As used in this chapter:

(1) "Commercial slaughter facility" shall have the same meaning as "commercial slaughterhouse" set forth in section 3302 of this title.

(2) "Livestock" shall have the same meaning as set forth in section 3302 of this title.

(3) "Offloaded" means removed or otherwise taken off or away from the conveyance of transport.

(4) "Poultry" shall have the same meaning as set forth in section 3302

of this title.

(5) “Reactor” means livestock or poultry that test positive to a test required under this chapter.

(6) “Suspect” means livestock or poultry that are tested under a requirement in this chapter and are not classified as testing positive or negative.

§ 1460. INTERSTATE MOVEMENT; ADMINISTRATION

(a) In order to implement the requirements of this chapter and chapter 63 of this title related to the licensing of livestock businesses, the Secretary of Agriculture, Food and Markets shall require importers of livestock or poultry into the State to comply with minimum requirements of the U.S. Department of Agriculture Animal Disease Traceability rule, 9 C.F.R. part 86, including any future amendments to the rule.

(b) In order to prevent the introduction or spread of contagious disease, or to ensure adequate animal traceability within this State, the Secretary may adopt rules to mandate stricter movement requirements than those required by the U.S. Department of Agriculture Animal Disease Traceability rule.

§ 1461. IMPORT AND EXPORT DOCUMENTATION REQUIRED

(a) Import permit. ~~No person shall import, or cause~~ The Secretary of Agriculture, Food and Markets may require a person who imports or causes to be imported into this State, any domestic animal except dogs and cats, ~~without to first obtaining~~ obtain an import permit from the Secretary, except as the Secretary may provide by rule. Permits shall be issued ~~on forms provided in a manner approved~~ by the Secretary. ~~Within ten days of importing an animal into Vermont, the importer shall return the import permit, detailing all information which the Secretary may reasonably require, to the Vermont Agency of Agriculture, Food and Markets. Persons importing horses shall not be required to obtain an import permit under this subsection unless there is a substantial danger of the introduction of a contagious disease into this State. In such case, the Secretary may require import permits for horses by emergency rule.~~

(b) Certificates of veterinary inspection. No person shall import, or cause to be imported, any domestic animal into this State without first obtaining a ~~certificate of veterinary inspection~~ Certificate of Veterinary Inspection, ~~except for equine imported for resale or slaughter as provided by subsection 1181(b) of this title, and~~ except as the Secretary may provide by rule. The certificate shall be issued by an accredited and licensed veterinarian in the state, or country, of origin. The certificate shall contain a statement by the ~~chief livestock official~~ state animal health official for that state certifying that the

veterinarian who executed the certificate is licensed to practice veterinary medicine in that state or country and is accredited by the U.S. Department of Agriculture to sign ~~certificate of veterinary inspection~~ a Certificate of Veterinary Inspection. The certificate shall be issued electronically or on a form prescribed by the state of origin, and declare that all of the animals listed have been inspected, or tested, or both ~~inspected and tested,~~ as required by the laws of Vermont applicable State and federal statutes, rules, and regulations. The certificate shall also set forth the name and address of the owner of any animal transferred pursuant to the certificate. One copy of the certificate shall accompany the animals during transportation, and one copy shall be filed with the Secretary. A Certificate of Veterinary Inspection that is issued electronically shall meet the data standards established by the National Assembly of State Animal Health Officials in consultation with the U.S. Department of Agriculture.

(c) Exemption. The Secretary may, by rule, exempt from the provisions of this section transactions concerning domestic animals transported into this State for immediate slaughter. A person who so imports an animal without a permit and then does not immediately slaughter the animal shall be subject to the provisions of this section.

(d) Exportation. A person wishing to export domestic animals to another state or country shall comply with all the requirements of that state or country for the importation of domestic animals.

§ 1461a. INTRASTATE MOVEMENT

(a) The Secretary of Agriculture, Food and Markets shall require all livestock being transported within the State to satisfy the requirements for official identification for interstate movement under the U.S. Department of Agriculture Animal Disease Traceability rule, 9 C.F.R. part 86, including any future amendments to the rule, prior to leaving the premises of origin, regardless of the reason for movement or duration of absence from the premises.

(b) Livestock transported from the premises of origin for purposes of receiving veterinary care at a hospital in this State are exempt from the requirements of subsection (a) of this section, provided that the livestock are returned to the premises of origin immediately following the conclusion of veterinary care.

(c) Livestock and poultry that are transported to a commercial slaughter facility within the State shall not be removed from the facility without the facility's owner's first obtaining written permission from the State Veterinarian. For purposes of this section, arrival of the conveyance onto facility property constitutes transport to a slaughter facility, regardless of

whether the animals have been offloaded or presented for antemortem inspection. The State Veterinarian may require inspection and testing prior to issuing consent for removal.

(d) Vermont-origin livestock and poultry that are transported to a slaughter facility outside this State shall not be removed from the facility and returned to Vermont without the facility's owner's first obtaining written permission from the State Veterinarian. For purposes of this section, arrival of the conveyance onto facility property constitutes transport to a slaughter facility, regardless of whether the animals have been offloaded or presented for antemortem inspection. The State Veterinarian may require inspection and testing prior to issuing consent for removal.

(e) A person shall not transport out-of-state livestock or poultry into Vermont for slaughter or other purpose without written consent from the State Veterinarian if the livestock or poultry is classified as a suspect or a reactor by the U.S. Department of Agriculture or was exposed to livestock or poultry classified as a suspect or a reactor.

§ 1462. QUARANTINE

The ~~secretary~~ Secretary may require by rule in general, or order in specific cases, that any domestic ~~animals~~ animal imported into this ~~state~~ State be placed in quarantine.

§ 1463. EXAMINATION; RELEASE FROM QUARANTINE

Within a reasonable time, the ~~secretary~~ Secretary shall examine any imported domestic animal placed in quarantine, and may apply such tests or retests as the ~~secretary~~ Secretary deems necessary to determine the health of ~~such~~ the animals. After ~~test~~ tests or retests ordered by the ~~secretary~~ Secretary have been applied, any domestic animal found free from contagious or infectious disease shall be released from quarantine, unless the ~~secretary~~ Secretary determines that the animal may have been exposed to a contagious disease and that it is necessary to continue the quarantine in order to prevent the potential spread of a contagious disease. Any ~~such~~ order shall be made in the manner provided by section 1157 of this title.

§ 1464. SLAUGHTER; EXPENSES

The ~~secretary~~ Secretary may take all steps that he or she deems necessary to prevent the potential spread of a contagious or an infectious disease, including ~~but not limited to~~, continuing a quarantine order concerning imported animals found to be infected with or exposed to a contagious disease. ~~Where~~ When necessary to protect the health of other domestic animals, or to prevent or control the spread of contagious disease, the ~~secretary~~ Secretary may order any domestic animal imported into the ~~state~~ State ~~which~~ that is infected with or has

been exposed to an infectious or contagious disease condemned, and destroyed, and the carcass disposed with, in accordance with the provisions of section 1159 of this title. The owner shall bear the expense of detention, examination, test, and slaughter but not the personal expenses of the ~~secretary~~ Secretary.

§ 1466. EXCEPTIONS

Nothing in sections 1461-1465 of this title shall be construed to apply to the transportation of domestic animals through the state, ~~nor shall it apply to horses that are driven into and out of the state on business or pleasure.~~ This exemption shall not apply, however, if such animals remain in the state for more than 48 hours State, provided that the animals are not offloaded within the State and the premises of the consignee are not within the State.

§ 1467. TEST AND INSPECTION IN STATE OF ORIGIN

(a) Any domestic animal brought into the state State shall be tested and inspected in the state of origin when testing or inspection is required by rule. Imported domestic animals may be retested at the discretion of the ~~secretary~~ Secretary.

(b) In order to prevent the spread of infections or contagious diseases, any domestic animal brought into the state State without having been first tested and inspected, as required by the ~~secretary's~~ Secretary's rules, may be returned to the state of origin within 48 hours of a determination by the ~~secretary~~ Secretary that the animals have been illegally imported. While in the state State, the illegally imported domestic animals shall be strictly quarantined. In the event that the domestic animals cannot be returned to the state of origin, the animals ~~shall~~ may be slaughtered or euthanized within 72 hours of a determination by the ~~secretary~~ Secretary that the animals have been illegally imported. The owner of the domestic animals shall bear the full expense of their removal from the state State, or destruction, and shall not be entitled to any compensation from the state State.

§ 1468. PERMITS TO PERSONS NEAR STATE LINE; SECRETARY GRANT OF PERMISSION OF ENTRY DURING FAIR SEASON

Persons living near the state State line who own or occupy land in an adjoining state may procure from the ~~secretary~~ Secretary permits to drive, herd, or transport cattle, horses, or other livestock back and forth to seasonal pasture and for other purposes or housing, subject to such restrictions as the ~~secretary~~ Secretary may prescribe by rule or order. ~~The secretary may make such rules in each case as are deemed necessary.~~ The ~~secretary~~ Secretary may grant permission for cattle, horses, or other domestic animals to enter the state State for exhibition purposes ~~during the fair season and~~ between May 1 and

October 31 of any year. The Secretary may make such adopt rules in connection therewith as are deemed necessary regarding entry of cattle, horses, or other domestic animals into the State for seasonal pasture, housing, or exhibition purposes.

§ 1469. PENALTIES-ILLEGAL IMPORTATION

(a) A person engaged in a commercial enterprise who violates a provision of this chapter, the rules adopted thereunder, a permit issued pursuant to this chapter, or an order issued pursuant to this chapter ~~shall be fined not more than \$15,000.00, or imprisoned for not more than two years, or both~~ may be assessed an administrative penalty under section 15 of this title.

(b) ~~The secretary~~ Secretary may seek a temporary or permanent injunction to enforce the provisions of this chapter, the rules adopted under this chapter, a permit issued pursuant to this chapter, or an order issued pursuant to this chapter.

(c) ~~The secretary~~ Secretary may suspend or revoke a license issued under ~~chapters chapter 63 and 65~~ of this title for a violation of this chapter, the rules adopted under this chapter, a permit issued pursuant to this chapter, or an order issued pursuant to this chapter in accordance with the provisions of the Administrative Procedure Act, 3 V.S.A. chapter 25 of Title 3.

§ 1471. EXPORTATION

~~A person wishing to export domestic animals to another state or country shall comply with all the requirements of that state or country for the importation of domestic animals. [Repealed.]~~

* * *

§ 1475. RULEMAKING

The ~~secretary~~ Secretary may adopt rules to carry out the provisions of this chapter.

§ 1476. MISUSE OR REMOVAL OF OFFICIAL IDENTIFICATION DEVICES

A person who, without authority from the Secretary, removes or causes to be removed from an animal any official identification device as defined in 9 C.F.R. § 86.1, or otherwise misuses or causes an official identification device to be misused, may be imprisoned not more than one year or fined not more than \$1,000.00, or both.

§ 1477. REVOCATION OF LIVESTOCK DEALER LICENSE

The Secretary may revoke for a period of one year the license of a livestock dealer who has been convicted of a violation of the provisions of section 1476

of this chapter, and the license shall not be renewed prior to the expiration of one year from the date of conviction.

Sec. 5. 6 V.S.A. chapter 113 is amended to read:

CHAPTER 113. FEEDING PROHIBITED FOOD WASTE TO SWINE

§ 1671. DEFINITION

~~For the purpose of (a)~~ As used in this chapter, “prohibited food waste” means all the following:

(1) Pre- and postconsumer waste material derived in whole or in part from the meat of any animal (including fish and poultry), or from other animal material; or

~~(2) other than processed dairy products, and other refuse of any character whatsoever that has been associated with any such material, resulting from the handling, preparation, cooking, disposal, or consumption of food, except that such term shall not include~~ Material that, as a result of the handling, preparation, cooking, disposal, or consumption of food, has come into contact with pre- or postconsumer waste material derived in whole or in part from the meat of any animal, including fish or poultry, or from other animal material.

(b) The term “prohibited food waste” shall not include the following:

(1) waste from ordinary household operations which that is fed directly to swine raised exclusively for the use in the household of the owner of the swine by members of the household and nonpaying guests and employees; and

(2) processed dairy products.

§ 1672. FEEDING OF PROHIBITED FOOD WASTE

No person shall feed prohibited food waste to swine or supply prohibited food waste to others for the purpose of feeding it to swine.

§ 1675. INSPECTION AND INVESTIGATION; RECORDS

~~Any authorized representative of the Vermont agency of agriculture, food and markets or United States~~ Agency of Agriculture, Food and Markets or U.S. Department of Agriculture is authorized to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating the allegations of feeding of prohibited food waste to swine.

§ 1676. REGULATIONS; COOPERATION WITH UNITED STATES

~~The~~ Agency ~~is~~ is charged with administration and enforcement of the provisions of this chapter, and is authorized to adopt rules and enforce all ~~rules~~ State and federal laws, rules, and regulations which that it deems necessary to

carry out the purposes of this chapter. The ~~agency~~ Agency is authorized to cooperate with the ~~United States agency of agriculture~~ U.S. Department of Agriculture.

§ 1677. PENALTIES

A person who violates any of the provisions of, or who fails to perform any duty imposed by this chapter, or who violates any rule or regulation adopted hereunder ~~shall be fined not less than \$10.00 nor more than \$100.00 for each offense~~ shall be assessed an administrative penalty under section 15 of this title. Each day upon which such violation occurs constitutes a separate offense. In addition thereto, ~~such~~ the person may be enjoined from further violation. ~~The secretary may also seek administrative penalties under section 15 of this title for violations of this chapter.~~

Sec. 6. 6 V.S.A. chapter 115 is amended to read:

CHAPTER 115. VETERINARY MEDICINES PHARMACEUTICALS

§ 1731. SALE, DISTRIBUTION, OR USE

(a) A person, firm, or corporation other than a licensed ~~graduate~~ veterinarian shall not sell, trade, distribute, or use in this state State any product containing live germs, cultures, or virulent products for the treatment of any domestic animal without first obtaining ~~the approval of and a permit issued by the secretary of agriculture, food and markets~~ written authorization from the Secretary of Agriculture, Food and Markets.

(b) In no case may a person, firm, or corporation, including licensed veterinarians, use or possess virulent live virus hog cholera vaccine.

§ 1732. PENALTIES

A person, firm, or corporation who violates a provision of section 1731 of this title shall be ~~imprisoned not more than six months or fined not more than \$200.00 nor less than \$25.00, or both~~ assessed an administrative penalty under section 15 of this title.

§ 1733. ~~SALE OR USE OF TUBERCULIN; LABELS; REPORTS~~

~~All tuberculin sold, given away, or used within this state shall bear a label stating the name and address of the person, firm, or institution making it and the date of preparation. A person selling or giving away tuberculin shall report to the secretary the amount of tuberculin sold or given away, the degree of strength, the name and address of the person to whom sold or given, and the date of delivery. Such report shall include the address of and be signed by the person or firm making the report. [Repealed.]~~

§ 1734. ~~DUTIES OF BUYER OF TUBERCULIN~~

~~A person buying or procuring tuberculin shall not use or dispose of it until assured in writing by the person from whom the tuberculin is received that its delivery has been reported to the secretary or unless he has reported its receipt to such secretary with information required to be furnished by those who distribute tuberculin. The person buying or procuring tuberculin shall keep a correct record of the amount received, the amount used, and the amount on hand. He shall report these facts whenever any tuberculin is used and, if at any time unused tuberculin is not deemed fit or is not to be used, such person shall forward it to such secretary with a statement showing his name and address, where and when such tuberculin was procured, the amount procured at the time, and the amount used. If the amount forwarded to such secretary and the amount used do not equal the amount procured, a statement shall be made as to the disposition of the remainder. [Repealed.]~~

~~§ 1735. PENALTIES—FORFEITURE OF VETERINARY’S CERTIFICATE~~

~~A veterinary surgeon who violates a provision of sections 1733 and 1734 of this title shall forfeit his or her certificate to practice and thereafter be debarred from practicing his or her profession within the state of Vermont, until such disability is legally removed. [Repealed.]~~

~~§ 1736. FINE OR IMPRISONMENT~~

~~A person who violates a provision of sections 1733 and 1734 of this title shall be fined not more than \$200.00 nor less than \$10.00, or be imprisoned not more than six months, or both. [Repealed.]~~

Sec. 7. REPEAL

6 V.S.A. chapter 109 (ear tags) is repealed.

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(For text see House Journal March 3, 2017)

H. 508

An act relating to building resilience for individuals experiencing adverse childhood experiences

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

Sec. 1. FINDINGS

(a) It is the belief of the General Assembly that controlling health care costs requires consideration of population health, particularly adverse childhood experiences (ACEs) and adverse family experiences (AFEs).

(b) The ACE questionnaire contains ten categories of questions for adults. It is used to measure an adult's exposure to toxic stress in childhood. Based on a respondent's answers to the questionnaire, an ACE score is calculated, which is the total number of ACE categories reported as having been experienced by a respondent. ACEs include physical, emotional, and sexual abuse; neglect; food and financial insecurity; living with a person experiencing mental illness or substance use disorder, or both; experiencing or witnessing domestic violence; and having divorced parents or an incarcerated parent.

(c) In a 1998 article entitled "Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults," published in the *American Journal of Preventive Medicine*, evidence was cited of a "strong graded relationship between the breadth of exposure to abuse or household dysfunction during childhood and multiple risk factors for several of the leading causes of death in adults."

(d) Physical, psychological, and emotional trauma during childhood may result in damage to multiple brain structures and functions.

(e) The greater the ACE score of a respondent, the greater the risk for many health conditions and high-risk behaviors, including alcoholism and alcohol abuse, chronic obstructive pulmonary disease, depression, obesity, illicit drug use, ischemic heart disease, liver disease, intimate-partner violence, multiple sexual partners, sexually transmitted diseases, smoking, suicide attempts, unintended pregnancies, and others.

(f) ACEs are implicated in the ten leading causes of death in the United States, and with an ACE score of six or higher, an individual has a 20-year reduction in life expectancy. In addition, the higher the ACE score, the greater the likelihood of later problems with employment and economic stability, including bankruptcy and homelessness.

(g) AFEs are common in Vermont. One in eight Vermont children has experienced three or more AFEs, the most common being divorced or separated parents, food and housing insecurity, and having lived with someone with a substance use disorder or mental health condition. Children with three or more AFEs have higher odds of failing to engage and flourish in school.

(h) The earlier in life an intervention occurs for an individual who has experienced ACEs or AFEs, the more likely that intervention is to be successful.

(i) ACEs and AFEs can be prevented when a multigenerational approach is employed to interrupt the cycle of ACEs and AFEs within a family, including both prevention and treatment throughout an individual's lifespan.

(j) It is the belief of the General Assembly that people who have experienced adverse childhood and family experiences can build resilience and can succeed in leading happy, healthy lives.

Sec. 2. 33 V.S.A. chapter 34 is added to read:

CHAPTER 34. PROMOTION OF CHILD AND FAMILY RESILIENCE

§ 3351. PRINCIPLES FOR VERMONT'S TRAUMA-INFORMED SYSTEM OF CARE

The General Assembly, to further the significant progress made in Vermont with regard to the prevention, screening, and treatment for adverse childhood and family experiences, adopts the following principles with regard to strengthening Vermont's response to trauma and toxic stress during childhood:

(1) Childhood and family trauma affects all aspects of society. Each of Vermont's systems addressing trauma, particularly social services; health care, including mental health; education; child care; and the justice system, shall collaborate to address the causes and symptoms of childhood and family trauma and to build resilience.

(2) Current efforts to address childhood trauma in Vermont shall be recognized, coordinated, and strengthened.

(3) Addressing trauma in Vermont requires building resilience in those individuals already affected and preventing childhood trauma within the next generation.

(4) Early childhood adversity and adverse family events are common and can be prevented. When adversity is not prevented, early intervention is essential to ameliorate the impacts of adversity. A statewide, community-based, public health approach is necessary to effectively address what is a chronic public health disorder. To that end, Vermont shall implement an overarching public health model based on neurobiology, resilience, epigenetics, and the science of adverse childhood and family experiences with regard to toxic stress. This model shall include training for local leaders to facilitate a cultural change around the prevention and treatment of childhood trauma.

(5) Addressing health in all policies shall be a priority of the Agency of Human Services in order to foster flourishing, self-healing communities.

(6) Service systems shall be integrated at the local and regional levels to maximize resources and simplify how systems respond to individual and family needs. All programs and services shall be evidence-informed and research-based, adhering to best practices in trauma treatment.

§ 3352. DEFINITIONS

As used in this chapter:

(1) “Adverse childhood experiences” or “ACEs” means potentially traumatic events that occur during childhood and can have negative, lasting effects on the adult’s health and well-being.

(2) “Adverse family experiences” or “AFE” means potentially traumatic events experienced by a child in his or her home or community that can have negative, lasting effects on the child’s health and well-being.

(3) “Social determinants of health” means the conditions in which people are born, grow, live, work, and age, including socioeconomic status, education, the physical environment, employment, social support networks, and access to health care.

(4) “Trauma-informed” means a type of program, organization, or system that realizes the widespread impact of trauma and understands there are potential paths for recovery; recognizes the signs and symptoms of trauma in clients, families, staff, and others involved in a system; responds by fully integrating knowledge about trauma into policies, procedures, and practices; and seeks to actively resist retraumatization.

(5) “Toxic stress” means strong, frequent, or prolonged experience of adversity without adequate support.

§ 3353. DIRECTING TRAUMA-INFORMED SYSTEMS

(a) The Secretary of Human Services shall ensure that one or more persons within the Agency are responsible for coordinating the Agency’s response to adverse childhood and family experiences and collaborating with community partners to build trauma-informed systems, including:

(1) coordinating the Agency’s childhood trauma prevention, screening, and treatment efforts with any similar efforts occurring elsewhere in State government;

(2) disseminating training materials for early child care and learning professionals, in conjunction with the Agency of Education, regarding the identification of students exposed to adverse childhood and family experiences and of strategies for referring families to community health teams and primary care medical homes;

(3) developing and implementing programming modeled after Vermont’s Resilience Beyond Incarceration and Kids-A-Part programs to address and reduce trauma and associated health risks to children of incarcerated parents;

(4) developing a plan that builds on work completed pursuant to 2015 Acts and Resolves No. 46, especially with respect to positive behavior

intervention and supports (PBIS) and full-service and trauma-informed schools, in conjunction with the Secretary of Education and other stakeholders, for creating a trauma-informed school system throughout Vermont;

(5) developing a plan that builds on work being done by early child care and learning professionals for children ages 0–5 regarding collaboration with health care professionals in medical homes, including assisting in the screening and surveillance of young children; and

(6) support efforts to develop a framework for outreach and partnership with local community groups to build flourishing communities.

(b) The person or persons directing the Agency’s work related to adverse childhood and family experiences, in consultation with the Child and Family Trauma Committee established pursuant to section 3354 of this chapter, shall provide advice and support to the Secretary and to each of the Agency’s departments in addressing the prevention and treatment of adverse childhood and family experiences and building of trauma-informed systems. This person or persons shall also support the Secretary and departments in connecting communities and organizations with the appropriate resources for recovery when traumatic events occur.

§ 3354. CHILD AND FAMILY TRAUMA COMMITTEE

(a) Creation. There is created the Child and Family Trauma Committee within the Agency of Human Services for the purpose of providing guidance to the Agency in its efforts to mitigate childhood trauma and build resiliency in accordance with the following principles:

(1) prioritization of a multi-generational approach to support health and mitigate adversity;

(2) recognition of the importance of actively building skills, including executive functioning and self-regulation, when designing strategies to promote the healthy development of young children, adolescents, and adults;

(3) use of approaches that are centered around early childhood, including prenatal, and that focus on building adult core capabilities; and

(4) emphasis on the integration of best practice, evidence-informed practice, and evaluation to ensure accountability and to provide evidence of effectiveness and efficiency.

(b)(1) Membership. The Committee shall be composed of the following members:

(A) the person or persons directing the Agency’s work related to adverse childhood and family experiences;

- (B) the Commissioner of Mental Health or designee;
 - (C) the Commissioner of Disabilities, Aging, and Independent Living or designee;
 - (D) the Commissioner of Corrections or designee;
 - (E) the Commissioner of Health or designee;
 - (F) the Commissioner of Vermont Health Access or designee;
 - (G) a representative of the Department for Children and Families' Child Development Division;
 - (H) a representative of the Department for Children and Families' Economic Services Division;
 - (I) a representative of the Department for Children and Families' Family Services Division;
 - (J) a field services director within the Agency, appointed by the Secretary; and
 - (K) the Secretary of Education or designee.
- (2) The Secretary of Human Services shall invite at least the following representatives to serve as members of the Committee:
- (A) a representative of the Vermont Network Against Domestic and Sexual Violence;
 - (B) a representative of the Vermont Adoption Consortium;
 - (C) a representative of the Vermont Federation of Families for Children's Mental Health;
 - (D) a representative of Vermont Care Partners;
 - (E) a mental health professional, as defined in 18 V.S.A. § 7101, or a social worker, licensed pursuant to 26 V.S.A. chapter 61;
 - (F) a representative of the parent-child center network;
 - (G) a representative of Vermont Afterschool, Inc.;
 - (H) a representative of Building Bright Futures;
 - (I) a representative of Vermont's "Help Me Grow" Resource and Referral Service Program;
 - (J) a representative of trauma survivors or of family members of trauma survivors;
 - (K) a public school teacher, administrator, guidance counselor, or school

nurse with knowledge about adverse childhood and family experiences;

(L) a private practice physician licensed pursuant to 26 V.S.A. chapter 23 or 33, a private practice nurse licensed pursuant to 26 V.S.A. chapter 38, or a private practice physician assistant licensed pursuant to 26 V.S.A. chapter 31;

(M) a representative of Prevent Child Abuse Vermont; and

(N) a representative of the field of restorative justice.

(c) Powers and duties. In light of current research and the fiscal environment, the Committee shall analyze existing resources related to building resilience in early childhood and advise the Agency on appropriate structures for advancing the most evidence-informed and cost-effective approaches to serve children experiencing trauma.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Human Services.

(e) Meetings.

(1) Meetings shall be held at the call of the Secretary of Human Services, but not more than 12 times annually.

(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.

Sec. 3. AGENCY APPOINTMENT RELATED TO ADVERSE CHILDHOOD AND FAMILY EXPERIENCE WORK

On or before September 1, 2017, the Secretary of Human Services shall inform the chairs of the Senate Committee on Health and Welfare and House Committees on Health Care and on Human Services as to whether the Agency was able to reallocate a position within the Agency for the purpose of directing the Agency's work pursuant to 18 V.S.A. § 3353 or whether some other arrangement was implemented.

Sec. 4. ADVERSE CHILDHOOD AND FAMILY EXPERIENCES; PRESENTATION

On or before February 1, 2018, the person or persons directing the Agency's work related to adverse childhood and family experiences shall present to the House Committees on Health Care and on Human Services and to the Senate Committee on Health and Welfare findings and recommendations related to each of the following, as well as proposed legislative language where appropriate:

(1) identification of existing home visiting services and populations eligible for these services, as well as a proposal for expanding home visits to all Vermont families with a newborn infant by addressing both the financial and strategic implications of universal home visiting;

(2) identification of all existing grants administered by the Agency of Human Services for professional development related to trauma-informed training;

(3) determination of what policies, if any, the Agency of Human Services should adopt regarding the use of evidence-informed grants with community partners that are under contract with the Agency to provide trauma-informed services;

(4) development of a proposal for measuring the outcomes of each of the initiatives created by this act, including specific quantifiable data and the amount of any savings that could be realized by the prevention and mitigation of adverse childhood and family experiences; and

(5) identification of measures to assess the long-term impacts of adverse childhood and family experiences on Vermonters and to assess the effectiveness of the initiatives created by this act in interrupting the effects of adverse childhood and family experiences.

Sec. 5. INVENTORY AND INTERIM REPORT

(a) The person or persons directing the Agency's work related to adverse childhood and family experience pursuant to 33 V.S.A. § 3353, in consultation with Vermont's "Help Me Grow" Resource and Referral Service Program, shall create an inventory of available State and community resources, program capabilities, and coordination capacity in each service area of the State with regard to the following:

(1) programs or providers currently screening patients for adverse childhood and family experiences or conducting another type of trauma assessment, including VCHIP's work integrating trauma-informed services in the delivery of health care to children and the screening and surveillance work occurring in early learning programs;

(2) regional capacity to establish integrated prevention, screening, and treatment programming and apply uniformly the Department for Children and Families' Strengthening Families Framework among service providers;

(3) availability of referral treatment programs for families and individuals who have experienced childhood trauma or are experiencing childhood trauma and whether telemedicine may be used to address shortages in service, if any; and

(4) identification of any regional or programmatic gaps in services or inconsistencies in the use of adverse childhood and family experiences screening tools.

(b) On or before November 1, 2017, the person or persons directing the Agency's work related to adverse childhood and family experiences shall submit the inventory created pursuant to subsection (a) of this section and any preliminary recommendations related to Sec. 4 of this act to the Senate Committee on Health and Welfare and House Committees on Health Care and on Human Services.

Sec. 6. ADVERSE CHILDHOOD AND FAMILY EXPERIENCES;
RESPONSE PLAN

On or before January 15, 2019, the person or persons directing the Agency's work related to adverse childhood and family experiences pursuant to 33 V.S.A. § 3353, shall present a plan to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare regarding the integration of evidence-informed and family-focused prevention, intervention, treatment, and recovery services for individuals affected by adverse childhood and family experiences. The plan shall address the coordination of services throughout the Agency and shall propose mechanisms for improving and engaging community providers in the systematic prevention of trauma, as well as screening, case detection, and care of individuals affected by adverse childhood and family experiences.

Sec. 7. 16 V.S.A. chapter 31, subchapter 4 is added to read:

Subchapter 4. School Nurses

§ 1441. FAMILY WELLNESS COACH TRAINING

A school nurse employed by a primary or secondary school is encouraged to participate in a training program, such as trauma-informed programming approved by the Department of Health in consultation with the Department of Mental Health, which may include programming offered by Prevent Child Abuse Vermont. If a school nurse has completed a training program, he or she may provide family wellness coaching to those families with a student attending the school where the school nurse is employed.

Sec. 8. 18 V.S.A. § 705 is amended to read:

§ 705. COMMUNITY HEALTH TEAMS

* * *

(d) The Director shall implement a plan to enable community health teams to work with school nurses in a manner that enables a community health team to serve as:

(1) an educational resource for issues that may arise during the course of the school nurse's practice; and

(2) a referral resource for services available to students and families outside an educational institution in coordination with the primary care medical home.

Sec. 9. 18 V.S.A. § 710 is added to read:

§ 710. ADVERSE CHILDHOOD AND FAMILY EXPERIENCE
SCREENING TOOL

The Director of the Blueprint for Health, in coordination with the Women's Health Initiative, and in consultation with the person or persons directing the Agency of Human Service's work related to adverse childhood and family experiences pursuant to 18 V.S.A. § 3353, shall work with those health insurance plans that participate in Blueprint for Health payments to plan for an increase in the per-member per-month payments to primary care and obstetric practices for the purpose of incentivizing use of a voluntary evidence-informed screening tool. In addition, the Director of the Blueprint for Health shall work with these health insurers to plan for an increase in capacity payments to the community health teams for the purpose of providing trauma-informed care to individuals who screen positive for adverse childhood and family experiences.

Sec. 10. RECOMMENDATIONS RELATED TO BLUEPRINT FOR
HEALTH INCENTIVES

As part of the report due pursuant to 18 V.S.A. § 709, the Director of the Blueprint for Health shall submit any recommendations regarding the design of adverse childhood and family experience screening incentives required pursuant to 18 V.S.A. § 710.

Sec. 11. HOME VISITING REFERRALS

The person or persons directing the Agency of Human Services' work related to adverse childhood and family experiences pursuant to 18 V.S.A. § 3353 shall coordinate with the Director of the Blueprint for Health and the Women's Health Initiative to ensure all obstetric, midwifery, pediatric, naturopathic, and family medicine and internal medicine primary care practices participating in the Blueprint for Health receive information about regional home visiting services for the purpose of referring patients to appropriate services.

Sec. 12. GRANTS TO COMMUNITY PARTNERS

For the purpose of interrupting the widespread, multigenerational effects of adverse childhood and family experiences and their subsequent severe, related health problems, the Agency shall ensure that grants to its community partners

related to children and families strive toward accountability and community resilience.

* * * Training and Coordination * * *

Sec. 13. CURRICULUM; UNIVERSITY OF VERMONT'S COLLEGE OF MEDICINE AND COLLEGE OF NURSING AND HEALTH SCIENCES

The General Assembly recommends that the University of Vermont's College of Medicine and College of Nursing and Health Sciences expressly include information in their curricula pertaining to adverse childhood and family experiences and their impact on short- and long-term physical and mental health outcomes.

* * * Effective Date * * *

Sec. 14. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

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

An act relating to building resilience for individuals experiencing adverse childhood and family experiences.

Senate Proposal of Amendment to House Proposal of Amendment

S. 23

An act relating to juvenile jurisdiction

The Senate has concurred in the House proposal of amendment with further proposals of amendment as follows:

First: In Sec. 5, 33 V.S.A. chapter 52A § 5283(c), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) Hearings under subsection 5284(a) of this title shall be open to the public. All other youthful offender proceedings shall be confidential.

Second: In Sec. 5, 33 V.S.A. chapter 52A § 5285(d), after the word "toward" by inserting the words or regression from

Third: In Sec. 6, 33 V.S.A. § 5291(a), after the word "injury" by inserting the following: to himself or herself, and after the word "others" by inserting the following: .

Fourth: By inserting a new section to be numbered Sec. 7a to read as follows:

Sec. 7a. 2016 Acts and Resolves No.153, Sec. 39 is amended to read:

Sec. 39. EFFECTIVE DATES

* * *

(b) Sec. 16 (powers and responsibilities of the Commissioner regarding juvenile services) shall take effect on July 1, ~~2017~~ 2018.

* * *

(For House Proposal of Amendment see House Journal April 13, 2017)

NOTICE CALENDAR

Favorable with Amendment

S. 4

An act relating to publicly accessible meetings of an accountable care organization's governing body

Rep. Jickling of Brookfield, for the Committee on Health Care, recommends that the House propose to the Senate that the bill be amended as follows:

recommends that the House propose to the Senate that the bill be amended as follows:

First: In Sec. 2, in 18 V.S.A. § 9572(a), by adding a second sentence to read as follows: For purposes of this section, the term "ACO's governing body" shall also include the governing body of any organization acting as a coordinating entity for two or more ACOs.

Second: In Sec. 2, in 18 V.S.A. § 9572(c), by striking out the word "board's" preceding "meeting schedule" and inserting in lieu thereof the word "body's"

Third: In Sec. 2, in 18 V.S.A. § 9572(d)(1), by striking out "made available to the public" and inserting in lieu thereof "posted on the ACO's website within five business days following the meeting"

Fourth: In Sec. 3, effective date, by striking out "January 1, 2018" and inserting in lieu thereof "July 1, 2017"

(Committee vote: 11-0-0)

(For text see Senate Journal March 16, 17, 2017)

S. 8

An act relating to establishing the State Ethics Commission and standards of governmental ethical conduct

Rep. Townsend of South Burlington, for the Committee on Government

Operations, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Former Legislators and Executive Officers; Lobbying Restriction * * *

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

§ 266. PROHIBITED CONDUCT

* * *

(b)(1) A legislator or an Executive officer, for one year after leaving office, shall not be a lobbyist in this State.

(2) The prohibition set forth in subdivision (1) of this subsection shall not apply to a lobbyist exempted under section 262 of this chapter.

(c) As used in this section, “candidate’s:

(1) “Candidate’s committee,” “contribution,” and “legislative leadership political committee” shall have the same meanings as in 17 V.S.A. § 2901 chapter 61 (campaign finance).

(2) “Executive officer” means:

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

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

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

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

§ 267. EXECUTIVE OFFICERS; POSTEMPLOYMENT RESTRICTIONS

(a) Prior participation while in State employ.

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

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

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

(2) The prohibition set forth in subdivision (1) of this subsection applies to any matter the Executive officer directly handled, supervised, or managed, or gave substantial input, advice, or comment, or benefited from, either

through discussing, attending meetings on, or reviewing materials prepared regarding the matter.

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

(c) Exemption. The prohibitions set forth in subsections (a) and (b) of this section shall not apply if the former Executive officer's only role as an advocate would exempt that former officer from registration and reporting under 2 V.S.A. § 262.

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

(e) Definitions. As used in this section:

(1) "Advocate" means a person who assists, defends, or pleads.

(2) "Executive officer" means:

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

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

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

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

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

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

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

(a) Each candidate for State office, State Senator, or State Representative shall file with the officer with whom consent of candidate forms are filed, along with his or her consent, a disclosure form prepared by the State Ethics

Commission that contains the following information in regard to the previous calendar year:

(1) Each source, but not amount, of personal taxable income of the candidate or of his or her spouse or domestic partner, or the candidate together with his or her spouse or domestic partner, that totals more than \$5,000.00, ranked in order from highest to lowest income, including any of the sources meeting that total described as follows:

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

(B) investments, described generally as “investment income.”

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

(3) Any company of which the candidate or his or her spouse or domestic partner, or the candidate together with his or her spouse or domestic partner, owned more than 10 percent.

(4) Any lease or contract with the State held or entered into by:

(A) the candidate or his or her spouse or domestic partner; or

(B) a company of which the candidate or his or her spouse or domestic partner, or the candidate together with his or her spouse or domestic partner, owned more than 10 percent.

(b)(1) In addition, if a candidate’s spouse or domestic partner is a lobbyist, the candidate shall disclose that fact and provide the name of his or her spouse or domestic partner and, if applicable, the name of his or her lobbying firm.

(2) In this subsection, “lobbyist” and “lobbying firm” shall have the same meanings as in 2 V.S.A. § 261.

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

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

* * * Campaign Finance; Contractor Contribution Restrictions * * *

Sec. 4. 17 V.S.A. § 2950 is added to read:

§ 2950. STATE OFFICERS AND STATE OFFICE CANDIDATES;
CONTRACTOR CONTRIBUTION RESTRICTIONS

(a) Contributor restrictions on contracting.

(1) A person or his or her principal or spouse who makes a contribution to a State officer or a candidate for a State office shall not enter into a sole source contract valued at \$50,000.00 or more or multiple sole source contracts valued in the aggregate at \$100,000.00 or more with that State office or with the State on behalf of that office within one year following:

(A) that contribution, if the contribution was made to the incumbent State officer; or

(B) the beginning of the term of the office, if the contribution was made to a candidate for the State office who is not the incumbent.

(2) The prohibition set forth in subdivision (1) of this subsection shall end after the applicable one-year period described in subdivision (1) or upon the State officer vacating the office, whichever occurs first.

(b) Contractor restrictions on contributions.

(1)(A) A person who enters into a sole source contract valued at \$50,000.00 or more or multiple sole source contracts valued in the aggregate at \$100,000.00 or more with the office of a State officer or with the State on behalf of that office, or that person's principal or spouse, shall not make a contribution to a candidate for that State office or to that State officer.

(B) The candidate for State office or his or her candidate's committee or the State officer shall not solicit or accept a contribution from a person if that candidate, candidate's committee, or State officer knows the person is prohibited from making that contribution under this subdivision (1).

(2) The prohibitions set forth in subdivision (1) of this subsection shall be limited to a period beginning from the date of execution of the contract and ending with the completion of the contract.

(c) As used in this section:

(1) "Contract" means a "contract for services," as that term is defined in 3 V.S.A. § 341.

(2) "Person's principal" means an individual who:

(A) has a controlling interest in the person, if the person is a business entity;

(B) is the president, chair of the board, or chief executive officer of a business entity or is any other individual that fulfills equivalent duties as a president, chair of the board, or chief executive officer of a business entity;

(C) is an employee of the person and has direct, extensive, and substantive responsibilities with respect to the negotiation of the contract; or

(D) is an employee of a business entity whose compensation is determined directly, in whole or in part, by the award or payment of contracts by the State to the entity employing the employee. A regular salary that is paid irrespective of the award or payment of a contract with the State shall not constitute "compensation" under this subdivision (D).

Sec. 4a. 3 V.S.A. § 347 is added to read:

§ 347. CONTRACTOR CONTRIBUTION RESTRICTIONS

The Secretary of Administration shall include in the terms and conditions of sole source contracts a self-certification of compliance with the contractor contribution restrictions set forth in 17 V.S.A. § 2950.

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

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

§ 2904. CIVIL INVESTIGATION

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

* * *

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

* * *

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

§ 2904a. REPORTS TO STATE ETHICS COMMISSION

Upon receipt of a complaint made in regard to a violation of this chapter or of any rule made pursuant to this chapter, the Attorney General or a State's Attorney shall:

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

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

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

CHAPTER 31. GOVERNMENTAL ETHICS

Subchapter 1. General Provisions

§ 1201. DEFINITIONS

As used in this chapter:

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

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

(3) "Executive officer" means:

(A) a State officer; or

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

(4)(A) "Gift" means anything of value, tangible or intangible, that is bestowed for less than adequate consideration.

(B) "Gift" does not mean printed educational material such as books, reports, pamphlets, or periodicals.

(5) "Governmental conduct regulated by law" means conduct by an individual in regard to the operation of State government that is restricted or prohibited by law and includes:

(A) bribery pursuant to 13 V.S.A. § 1102;

(B) neglect of duty by public officers pursuant to 13 V.S.A. § 3006 and by members of boards and commissions pursuant to 13 V.S.A. § 3007;

(C) taking illegal fees pursuant to 13 V.S.A. § 3010;

(D) false claims against government pursuant to 13 V.S.A. § 3016;

(E) owning or being financially interested in an entity subject to a department's supervision pursuant to section 204 of this title;

(F) failing to devote time to duties of office pursuant to section 205 of this title;

(G) engaging in retaliatory action due to a State employee's

involvement in a protected activity pursuant to subchapter 4A of chapter 27 of this title;

(H) a former legislator or former Executive officer serving as a lobbyist pursuant to 2 V.S.A. § 266(b); and

(I) a former Executive officer serving as an advocate pursuant to section 267 of this title.

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

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

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

§ 1202. STATE CODE OF ETHICS

The Ethics Commission, in consultation with the Department of Human Resources, shall create and maintain a State Code of Ethics that sets forth general principles of governmental ethical conduct.

Subchapter 2. Disclosures

§ 1211. EXECUTIVE OFFICERS; BIENNIAL DISCLOSURE

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

(1) Each source, but not amount, of personal taxable income of the officer or of his or her spouse or domestic partner, or the officer together with his or her spouse or domestic partner, that totals more than \$5,000.00, ranked in order from highest to lowest income, including any of the sources meeting that total described as follows:

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

(B) investments, described generally as “investment income.”

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

(3) Any company of which the officer or his or her spouse or domestic partner, or the officer together with his or her spouse or domestic partner, owned more than 10 percent.

(4) Any lease or contract with the State held or entered into by:

(A) the officer or his or her spouse or domestic partner; or

(B) a company of which the officer or his or her spouse or domestic partner, or the officer together with his or her spouse or domestic partner, owned more than 10 percent.

(b)(1) In addition, if an Executive officer's spouse or domestic partner is a lobbyist, the officer shall disclose that fact and provide the name of his or her spouse or domestic partner and, if applicable, the name of his or her lobbying firm.

(2) In this subsection, "lobbyist" and "lobbying firm" shall have the same meanings as in 2 V.S.A. § 261.

(c)(1) An officer shall file his or her disclosure on or before January 15 of the odd-numbered year or, if he or she is appointed after January 15, within 10 days after that appointment.

(2) An officer who filed this disclosure form as a candidate in accordance with 17 V.S.A. § 2414 in the preceding year and whose disclosure information has not changed since that filing may update that filing to indicate that there has been no change.

§ 1212. COMMISSION MEMBERS AND EXECUTIVE DIRECTOR;
BIENNIAL DISCLOSURE

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

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

§ 1213. DISCLOSURES; GENERALLY

(a) The Executive Director of the Commission shall prepare on behalf of the Commission any disclosure form required to be filed with it and the candidate disclosure form described in 17 V.S.A. § 2414, and shall make those forms available on the Commission's website.

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

Subchapter 3. State Ethics Commission

§ 1221. STATE ETHICS COMMISSION

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

(b) Membership.

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

(A) a chair of the Commission, who shall be appointed by the Chief Justice of the Supreme Court and who shall have a background or expertise in ethics;

(B) one member appointed by the League of Women Voters of Vermont, who shall be a member of the League;

(C) one member appointed by the Board of Directors of the Vermont Society of Certified Public Accountants, who shall be a member of the Society;

(D) one member appointed by the Board of Managers of the Vermont Bar Association, who shall be a member of the Association; and

(E) one member appointed by the Board of Directors of the Vermont Human Resource Association, who shall be a member of the Association.

(2) A member shall not:

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

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

(C) be a lobbyist;

(D) be a candidate for State or legislative office; or

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

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

(4)(A) A member shall serve a term of three years and until a successor is appointed. A term shall begin on January 1 of the year of appointment and

run through December 31 of the last year of the term. Terms of members shall be staggered so that not all terms expire at the same time.

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

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

(c) Executive Director.

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

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

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

(e) Meetings. Meetings of the Commission:

(1) shall be held at least quarterly for the purpose of the Executive Director updating the Commission on his or her work;

(2) may be called by the Chair and shall be called upon the request of any other two Commission members; and

(3) shall be conducted in accordance with 1 V.S.A. § 172.

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

§ 1222. COMMISSION MEMBER DUTIES AND PROHIBITED CONDUCT

(a) Conflicts of interest.

(1) Prohibition; recusal.

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

(B) The failure of a Commission member to recuse himself or herself as described in subdivision (A) of this subdivision (1) may be grounds for the

Commission to discipline or remove that member.

(2) Disclosure of conflict of interest.

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

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

(C) A Commission member may be prohibited from participating in a Commission matter by at least three other members of the Commission.

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

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

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

§ 1223. PROCEDURE FOR HANDLING COMPLAINTS

(a) Accepting complaints.

(1) On behalf of the Commission, the Executive Director shall accept complaints from any source regarding governmental ethics in any of the three branches of State government or of the State's campaign finance law set forth in 17 V.S.A. chapter 61.

(2) Complaints shall be in writing and shall include the identity of the complainant.

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

(1) Governmental conduct regulated by law.

(A) If the complaint alleges a violation of governmental conduct regulated by law, the Executive Director shall refer the complaint to the Attorney General or to the State's Attorney of jurisdiction, as appropriate.

(B) The Attorney General or State's Attorney shall file a report with the Executive Director regarding his or her decision as to whether to bring an enforcement action as a result of a complaint referred under subdivision (A) of this subdivision (1) within 10 days of that decision.

(2) Department of Human Resources Code of Ethics.

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

(B) The Commissioner shall report back to the Executive Director regarding the final disposition of a complaint referred under subdivision (A) of this subdivision (2) within 10 days of that final disposition.

(3) Campaign finance.

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

(B) The Attorney General or State's Attorney shall file a report with the Executive Director regarding his or her decision as to whether to bring an enforcement action as a result of a complaint referred under subdivision (A) of this subdivision (3) as set forth in 17 V.S.A. § 2904a.

(4) Legislative and Judicial Branches; attorneys.

(A) If the complaint is in regard to conduct committed by a State Senator, the Executive Director shall refer the complaint to the Senate Ethics Panel and shall request a report back from the Panel regarding the final disposition of the complaint.

(B) If the complaint is in regard to conduct committed by a State Representative, the Executive Director shall refer the complaint to the House Ethics Panel and shall request a report back from the Panel regarding the final disposition of the complaint.

(C) If the complaint is in regard to conduct committed by a judicial officer, the Executive Director shall refer the complaint to the Judicial Conduct Board and shall request a report back from the Board regarding the final disposition of the complaint.

(D) If the complaint is in regard to an attorney employed by the

State, the Executive Director shall refer the complaint to the Professional Responsibility Board and shall request a report back from the Board regarding the final disposition of the complaint.

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

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

(c) Confidentiality. Complaints and related documents in the custody of the Commission shall be exempt from public inspection and copying under the Public Records Act and kept confidential.

§ 1224. COMMISSION ETHICS TRAINING

At least annually, in collaboration with the Department of Human Resources, the Commission shall make available to State officers and State employees training on issues related to governmental ethics. The training shall include topics related to those covered in any guidance or advisory opinion issued under section 1225 of this subchapter.

§ 1225. EXECUTIVE DIRECTOR GUIDANCE AND ADVISORY OPINIONS

(a) Guidance.

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

(2) The Executive Director may consult with members of the Commission and the Department of Human Resources in preparing this guidance.

(3) Guidance issued under this subsection shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential unless the receiving entity has publicly disclosed it.

(b) Advisory opinions.

(1) The Executive Director may issue advisory opinions that provide general advice or interpretation regarding this chapter or any issue related to governmental ethics.

(2) The Executive Director may consult with members of the Commission and the Department of Human Resources in preparing these advisory opinions.

(3) The Executive Director shall post on the Commission's website any advisory opinions that he or she issues.

§ 1226. COMMISSION REPORTS

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

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

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

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

* * * Implementation * * *

Sec. 8. APPLICABILITY OF EMPLOYMENT RESTRICTIONS

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

Sec. 9. STATE ETHICS COMMISSION; STATE CODE OF ETHICS CREATION

The State Ethics Commission shall create the State Code of Ethics in consultation with the Department of Human Resources as described in 3 V.S.A. § 1202 in Sec. 7 of this act on or before July 1, 2018.

Sec. 10. IMPLEMENTATION OF THE STATE ETHICS COMMISSION

(a) The State Ethics Commission, created in Sec. 7 of this act, is established on January 1, 2018.

(b) Members of the Commission shall be appointed on or before October 15, 2017 in order to prepare as they deem necessary for the establishment of the Commission, including the hiring of the Commission's Executive Director. Terms of members shall officially begin on January 1, 2018.

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

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

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

(C) the Board of Directors of the Vermont Society of Certified Public Accountants shall appoint a member for a one-year term;

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

(E) the Board of Directors of the Vermont Human Resource Association shall appoint a member for a two-year term.

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

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

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

Sec. 12. BUILDINGS AND GENERAL SERVICES; SPACE ALLOCATION

The Commissioner of Buildings and General Services shall allocate space for the State Ethics Commission established in Sec. 7 of this act. This space shall be allocated on or before October 15, 2017.

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

(a) Surcharge.

(1) In fiscal year 2018 and thereafter, a surcharge of up to 2.3 percent, but no greater than the cost of the activities of the State Ethics Commission set forth in Sec. 7 of this act, on the per-position portion of the charges authorized in 3 V.S.A. § 2283(c)(2) shall be assessed to all Executive Branch agencies, departments, and offices and shall be paid by all assessed entities solely with State funds.

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

(b) Repeal. This section shall be repealed on June 30, 2020.

* * * Municipal Ethics and Conflicts of Interest * * *

Sec. 14. 24 V.S.A. § 1984 is amended to read:

§ 1984. CONFLICT OF INTEREST PROHIBITION

(a)(1) A Each town, city, ~~or~~ and incorporated village, by majority vote of those present and voting at an annual or special meeting warned for that purpose, ~~may~~ shall adopt a conflict of interest prohibition for its elected and appointed officials, which shall contain:

~~(1)~~(A) A definition of “conflict of interest.”

~~(2)~~(B) A list of the elected and appointed officials covered by such prohibition.

~~(3)~~(C) A method to determine whether a conflict of interest exists.

~~(4)~~(D) Actions that must be taken if a conflict of interest is determined to exist.

~~(5)~~(E) A method of enforcement against individuals violating such prohibition.

(2) The requirement set forth in subdivision (1) of this subsection shall not apply if, pursuant to the provisions of subdivision 2291(20) of this title, the municipality has established a conflict of interest policy that is in substantial compliance with subdivision (1).

(b)(1) Unless the prohibition adopted pursuant to subsection (a) of this section contains a different definition of “conflict of interest,” for the purposes of a prohibition adopted under this section, “conflict of interest” means a direct personal or pecuniary interest of a public official, or the official’s spouse, household member, business associate, employer, or employee, in the outcome of a cause, proceeding, application, or any other matter pending before the official or before the agency or public body in which the official holds office or is employed.

(2) “Conflict of interest” does not arise in the case of votes or decisions on matters in which the public official has a personal or pecuniary interest in the outcome, such as in the establishment of a tax rate, that is no greater than that of other persons generally affected by the decision.

Sec. 15. 24 V.S.A. § 2291 is amended to read:

§ 2291. ENUMERATION OF POWERS

For the purpose of promoting the public health, safety, welfare, and convenience, a town, city, or incorporated village shall have the following powers:

* * *

(20) To establish a conflict-of-interest policy to apply to all elected and

appointed officials of the town, city, or incorporated village or ethical conduct policies to apply to all elected and appointed officials and employees of the municipality, or both.

* * *

Sec. 16. GENERAL ASSEMBLY; RECOMMENDATION REGARDING MUNICIPAL ETHICS

The General Assembly recommends that each town, city, and incorporated village adopt ethical conduct policies for its elected and appointed officials and employees.

Sec. 17. TRANSITIONAL PROVISION; MUNICIPAL ETHICS COMPLAINTS; SECRETARY OF STATE; ETHICS COMMISSION; REPORTS

(a) Until December 15, 2020, the Secretary of State shall accept complaints in writing regarding municipal governmental ethical conduct and:

(1) forward those complaints to the applicable municipality; and

(2) report those complaints annually on or before December 15 to the Executive Director of the State Ethics Commission in the form requested by the Executive Director.

(b) The State Ethics Commission shall include a summary of these municipal complaints and any recommendations for legislative action in regard to municipal ethics along with its report of complaints and recommendations described in Sec. 7 of this act in 3 V.S.A. § 1226(1) and (3) (Commission reports; complaints; recommendations).

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

This act shall take effect as follows:

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

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

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

(2) The following sections shall take effect on January 1, 2018:

(A) Sec. 3, 17 V.S.A. § 2414 (candidates for State and legislative office; disclosure form);

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

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

(3) Secs. 4, 17 V.S.A. § 2950 (State officers and State office candidates; contractor contribution restrictions) and 4a, 3 V.S.A. § 347 (contractor contribution restrictions) shall take effect on December 16, 2018.

(4) Sec. 14, 24 V.S.A. § 1984 (municipalities; conflict of interest prohibition) shall take effect on July 1, 2019.

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

(Committee vote: 9-0-2)

(For text see Senate Journal February 7, 9, 2017)

S. 34

An act relating to cross-promoting development incentives and State policy goals

Rep. Stuart of Brattleboro, for the Committee on Commerce and Economic Development, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Rural Economic Development Initiative * * *

Sec. 1. 10 V.S.A. chapter 15, subchapter 4 is added to read:

§ 325m. RURAL ECONOMIC DEVELOPMENT INITIATIVE

Subchapter 4. Rural Economic Development Initiative

(a) Definitions. As used in this subchapter:

(1) “Rural area” means a county of the State designated as “rural” or “mostly rural” by the U.S. Census Bureau in its most recent decennial census.

(2) “Small town” means a town in the State with a population of less than 5,000 at the date of the most recent U.S. Census Bureau decennial census.

(b) Establishment. There is created within the Vermont Housing and Conservation Board a Rural Economic Development Initiative to promote and facilitate community economic development in the small towns and rural areas of the State. The Rural Economic Development Initiative shall collaborate with municipalities, businesses, regional development corporations, and other appropriate entities to access funding and other assistance available to small towns and businesses in rural areas of the State when existing State resources or staffing assistance is not available.

(c) Services; access to funding.

(1) The Rural Economic Development Initiative shall provide the following services to small towns and businesses in rural areas:

(A) identification of grant or other funding opportunities available to small towns and businesses in rural areas that facilitate business development, siting of businesses, infrastructure, or other economic development opportunities;

(B) technical assistance to small towns and businesses in rural areas in writing grants, accessing and completing the application process for identified grants or other funding opportunities, including writing applications for grants or other funding, coordination with providers of grants or other funding, strategic planning for the implementation or timing of activities funded by grants or other funding, and compliance with the requirements of grant awards or awards of other funding; and

(C) recommending available grants, tax credits, or other incentives that a small town or rural area can use to attract businesses.

(2) In providing services under this subsection, the Rural Economic Development Initiative shall give first priority to projects that have received necessary State or municipal approval and that are ready for construction or implementation. Priority shall also be given to projects identified through community visits hosted by the Vermont Council on Rural Development or other public engagement planning processes.

(3) In identifying businesses, or business types, the Rural Economic Development Initiative shall seek to identify businesses or business types in the following priority areas:

(A) milk plants, milk handlers, or dairy products, as those terms are defined in 6 V.S.A. § 2672;

(B) the outdoor equipment or recreation industry;

(C) the value-added forest products industry;

(D) the value-added food industry;

(E) phosphorus removal technology; and

(F) composting facilities.

(d) Report. Beginning on January 31, 2018, and annually thereafter, the Rural Economic Development Initiative shall submit to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and the House Committees on Agriculture and Forestry and on Commerce and Economic Development a report regarding the activities and progress of the

Initiative. The report shall include:

- (1) a summary of activities in the preceding calendar year;
- (2) an evaluation of the effectiveness of the services provided to small towns and businesses in rural areas;
- (3) an accounting of the grants or other funding facilitated or provided assistance with;
- (4) an accounting of the funds acquired by the Rural Economic Development Initiative for administration of grants or other funding mechanisms and whether these funds are sufficient to offset the cost of the Rural Economic Development Initiative; and
- (5) recommended changes to the program, including proposed legislative amendments to further economic development in small towns and rural areas in the State.

Sec. 2. RURAL ECONOMIC DEVELOPMENT INITIATIVE

In fiscal year 2018, it is the intent of the General Assembly to make funding available to the Vermont Housing and Conservation Board for the purposes of implementing and administering the Rural Economic Development Initiative under 10 V.S.A. § 325m.

* * * Cross-promotion of Development Programs * * *

Sec. 3. EXECUTIVE BRANCH CROSS-PROMOTION OF LOAN, GRANT, AND INCENTIVE PROGRAMS

The General Assembly finds that it is within the authority of the Executive Branch to manage a process of continuous improvement for agency and statewide programs and operations. While undertaking these efforts, the Executive Branch shall ensure that State loan, grant, and other incentive programs cross-promote:

- (1) the availability of financial and technical assistance from the State in education and outreach materials; and
- (2) the State policies funded by State incentive programs, including the adoption of renewable energy, rural economic development, public access to conserved lands, and water quality improvements.

* * * Energy Efficiency * * *

Sec. 4. REPORT; ENERGY EFFICIENCY CHARGE; COMMERCIAL AND INDUSTRIAL CUSTOMERS

- (a) On or before January 15, 2018, the Commissioner of Public Service

(the Commissioner) shall submit a report with recommendations as described in subsection (b) of this section.

(1) In preparing the report, the Commissioner shall consult with the Secretary of Commerce and Community Development, the energy efficiency utilities (EEU) appointed under 30 V.S.A. § 209(d)(2), the regional development corporations, the Public Service Board, and other affected persons.

(2) The Commissioner shall submit the report to the Senate Committees on Finance, on Natural Resources and Energy, and on Agriculture and the House Committees on Ways and Means, on Energy and Technology, on Commerce and Economic Development, and on Agriculture and Forestry.

(b) The report shall provide the Commissioner's recommendations on:

(1) Whether and how to increase the use by commercial and industrial customers of self-administered efficiency programs under 30 V.S.A. § 209(d) and (j), including:

(A) Potential methods and incentives to increase participation in self-administration of energy efficiency, including:

(i) Potential changes to the eligibility criteria for existing programs.

(ii) Use of performance-based structures.

(iii) Self-administration of energy efficiency by a commercial and industrial customer, with payment of an energy efficiency charge (EEC) amount only for technical assistance by an EEU, if the customer demonstrates that it possesses in-house expertise that supports such self-administration and implements energy efficiency measures that the customer demonstrates are cost-effective and save energy at a benefit-cost ratio similar to the EEU.

(B) The potential inclusion of such methods and incentives in EEU demand resource plans.

(C) Periodic reporting by the EEU's of participation rates in self-administration of energy efficiency by commercial and industrial customers located in the small towns in the State's rural areas. As used in this subdivision (C):

(i) "Rural area" means a county of the State designated as "rural" or "mostly rural" by the U.S. Census Bureau in its most recent decennial census.

(ii) "Small town" means a town in a rural area of the State with a population of less than 5,000 at the date of the most recent U.S. Census Bureau

decennial census.

(2) The potential establishment of a multi-year pilot program that allows a category of commercial and industrial customers to apply the total amount of their Energy Efficiency Charge (EEC), for the period of the pilot, to investments that reduce the customer's total energy consumption.

(A) The goal of such a program would be to reduce significantly all energy costs for the customer, and to transform the energy profile of the customer such that significant savings would be generated and endure over the long term. Customers in the program would receive the full amount of their EEC contributions, for the period of the pilot, in the form of direct services and incentives provided by an EEU, which would consider how to lower customers' bills cost-effectively across electric, heating, transportation, and process fuels using energy efficiency, demand management, energy storage, fuel switching, and on-site renewable energy.

(B) In the report, the Commissioner shall consider:

(i) the definition of eligible commercial and industrial customers;

(ii) the potential establishment and implementation of such a program in a manner similar to an economic development rate for the EEU;

(iii) the interaction of such a program with the existing programs for self-managed energy efficiency under 30 V.S.A. § 209(d), including the Energy Savings Account, Self-Managed Energy Efficiency, and Customer Credit Programs;

(iv) the benefits and costs of such a program, including:

(I) a reduction in the operating costs of participating customers;

(II) the effect on job retention and creation and on economic development;

(III) the effect on greenhouse gas emissions;

(IV) the effect on systemwide efficiency benefits that would otherwise be obtained with the EEC funds, such as avoided supply costs, avoided transmission and distribution costs, avoided regional network service charges, and lost revenues from the regional forward-capacity market;

(V) the potential impact on commercial and industrial customers that may not be eligible to participate in such a program;

(VI) the extent to which such a program may result in cost shifts or subsidization among rate classes, and methods for avoiding or mitigating these effects;

(VII) the effect on the budgets developed through the demand resource planning process;

(VIII) the costs of administration;

(IX) any other benefits and costs of the potential program; and

(v) The consistency of such a program with least-cost planning as defined in 30 V.S.A. § 218c; with State energy goals and policy set forth in 10 V.S.A. §§ 578, 580, and 581 and 30 V.S.A. §§ 202a and 218e; and with the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b.

(c) The report submitted under this section shall include a proposed timeline to phase in the recommendations contained in the report. In developing this timeline, the Commissioner shall consider the impact to the established budgets of the EEU's, the regulatory requirements applicable to the EEU's, and the value of rapid implementation of the recommendations.

Sec. 5. 30 V.S.A. § 209(d)(3) is amended to read:

(3) Energy efficiency charge; regulated fuels. In addition to its existing authority, the Board may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title, with due consideration to the State's energy policy under section 202a of this title and to its energy and economic policy interests under section 218e of this title to maintain and enhance the State's economic vitality. The charge shall be known as the energy efficiency charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the Board and deposited into ~~an~~ the Electric Efficiency Fund. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the Board. This notice shall include, at a minimum, a toll-free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge.

* * *

* * * Environmental Permitting * * *

Sec. 6. ENVIRONMENTAL PERMITTING; AIR CONTAMINANT FEES;

ANAEROBIC DIGESTION

On or before January 15, 2018, the Secretary of Natural Resources shall report to House Committees on Agriculture and Forestry and on Natural Resources, Fish and Wildlife and the Senate Committees on Agriculture and on Natural Resources and Energy with a recommendation for reducing or eliminating the air contaminant fee paid by farmers for the emissions from the anaerobic digestion of agricultural products, agricultural by-products,

agricultural waste, or food waste. The report shall include a summary of what services the Agency of Natural Resources provides or provided to owners of anaerobic digestors in relation to fees paid.

* * * Phosphorus Removal Technology; Grants * * *

Sec. 7. 6 V.S.A. § 4828 is amended to read:

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to contract applicators, nonprofit organizations, and farms to purchase or use innovative equipment that will aid in the reduction of surface runoff of agricultural wastes to State waters, improve water quality of State waters, reduce odors from manure application, separate phosphorus from manure, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the Agency of Agriculture, Food and Markets to provide farms, nonprofit organizations, and custom applicators in Vermont with State financial assistance for the purchase of new or innovative equipment to improve manure application, separation of phosphorus from manure, or nutrient management plan implementation.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined by the Secretary:

(1) First priority shall be given to capital equipment to be used on farm sites that are serviced by custom applicators, phosphorus separation equipment providers, and nonprofit organizations and that are located in descending order within the boundaries of:

- (A) the Lake Champlain Basin;
- (B) the Lake Memphremagog Basin;
- (C) the Connecticut River Basin; and
- (D) the Hudson River Basin.

(2) Next priority shall be given to capital equipment to be used at a farm site ~~which~~ that is located in descending order within the boundaries of:

- (A) the Lake Champlain Basin;
- (B) the Lake Memphremagog Basin;
- (C) the Connecticut River Basin; and
- (D) the Hudson River Basin.

(d) An applicant for a State grant under this section to purchase or implement phosphorus removal technology or equipment shall pay 10 percent

of the total eligible project cost. The dollar amount of a State grant to purchase or implement phosphorus removal technology or equipment shall be equal to the total eligible project cost, less 10 percent of the total as paid by the applicant, and shall not exceed \$300,000.00.

* * * Forestry Equipment; Sales Tax Exemption * * *

Sec. 8. FORESTRY EQUIPMENT; SALES TAX EXEMPTION

On or before January 15, 2018, the Commissioner of Taxes shall submit to the House Committees on Agriculture and Forestry and on Ways and Means and the Senate Committees on Agriculture and on Finance recommended draft legislation for exempting from forestry harvesting and processing equipment from the sales and use tax imposed under 32 V.S.A. §§ 9741 and 9773.

* * * Workers' Compensation; High-Risk Occupations
and Industries * * *

Sec. 9. WORKERS' COMPENSATION; INDUSTRIES AND
OCCUPATIONS WITH HIGH RISK, HIGH PREMIUMS, AND
FEW POLICYHOLDERS; STUDY; REPORT

(a) The Commissioner of Financial Regulation, in consultation with the Commissioner of Labor, the National Council on Compensation Insurance, and other interested stakeholders, shall identify and study industries and occupations in Vermont that experience a high risk of workplace and on-the-job injuries and whose workers' compensation insurance is characterized by high premiums and few policyholders in the insurance pool. The industries and occupations addressed in the study shall include, among others, logging and log hauling, as well as arborists, roofers, and occupations in saw mills and wood manufacturing operations. In particular, the Commissioner shall:

(1) examine differences in the potential for loss, premium rates, and experience and participation in the workers' compensation marketplace between the industries and occupations identified, and the average for all industries and occupations in Vermont;

(2) study potential methods for reducing workers' compensation premium rates and costs for high-risk industries and occupations, including risk pooling between multiple high-risk industries or occupations, creating self-insured trusts; creating voluntary safety certification programs, and programs or best practices employed by other states; and

(3) model the potential impact on workers' compensation premiums and costs from each of the methods identified pursuant to subdivision (2) of this subsection.

(b) On or before January 15, 2018, the Commissioner of Financial

Regulation shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance regarding his or her findings and any recommendations for legislative action to reduce the workers' compensation premium rates and costs for the industries identified in the study.

* * * Repeals * * *

Sec. 10. REPEALS

The following are repealed on July 1, 2023:

(1) 10 V.S.A. chapter 15, subchapter 4 (Rural Economic Development Initiative); and

(2) 6 V.S.A. § 4828(d) (phosphorus removal grant criteria).

* * * Effective Date * * *

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2017.

(Committee vote: 9-0-2)

(For text see Senate Journal March 29, 30, 2017)

S. 133

An act relating to examining mental health care and care coordination

Rep. Lippert of Hinesburg, for the Committee on Health Care, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Findings and Legislative Intent * * *

Sec. 1. FINDINGS

The General Assembly finds that:

(1) The State's mental health system has changed during the past ten years, with regard to both policy and the structural components of the system.

(2) The State's adult mental health inpatient system was disrupted after Tropical Storm Irene flooded the Vermont State Hospital in 2011. The General Assembly, in 2012 Acts and Resolves No. 79, responded by designing a system "to provide flexible and recovery-oriented treatment opportunities and to ensure that the mental health needs of Vermonters are served."

(3) Elements of Act 79 included the addition of over 50 long- and short-term residential beds to the State's mental health system, all of which are operated by the designated and specialized service agencies, increased peer

support services, and replacement inpatient beds. It also was intended to strengthen existing care coordination within the Department of Mental Health to assist community providers and hospitals in the development of a system that provided rapid access to each level of support within the continuum of care as needed to ensure appropriate, high-quality, and recovery-oriented services in the least restrictive and most integrated settings for each stage of an individual's recovery.

(4) Two key elements of Act 79 were never realized: a 24-hour peer-run warm line and eight residential recovery beds. Other elements of Act 79 were fully implemented.

(5) Since Tropical Storm Irene flooded the Vermont State Hospital, Vermont has experienced a dramatic increase in the number of individuals in mental health distress experiencing long waits in emergency departments for inpatient hospital beds. Currently, hospitals average 90 percent occupancy, while crisis beds average just under 70 percent occupancy, the latter largely due to understaffing. Issues related to hospital discharge include an inadequate staffing in community programs, insufficient community programs, and inadequate supply of housing.

(6) Individuals presenting in emergency departments reporting acute psychiatric distress often remain in that setting for many hours or days under the supervision of hospital staff, peers, crisis workers, or law enforcement officers, until a bed in a psychiatric inpatient unit becomes available. Many of these individuals do not have access to a psychiatric care provider, and the emergency department does not provide a therapeutic environment. Due to these conditions, some individuals experience trauma and worsening symptoms while waiting for an appropriate level of care. Hospitals are also strained and report that their staff is demoralized that they cannot care adequately for psychiatric patients and consequently there is a rise in turnover rates. Many hospitals are investing in special rooms for psychiatric emergencies and hiring mental health technicians to work in the emergency departments.

(7) Traumatic waits in emergency departments for children and adolescents in crisis are increasing, and there are limited resources for crisis support, hospital diversion, and inpatient care for children and adolescents in Vermont.

(8) Addressing mental health care needs within the health care system in Vermont requires appropriate data and analysis, but simultaneously the urgency created by those individuals suffering under existing circumstances must be recognized.

(9) Research has shown that there are specific factors associated with

long waits, including homelessness, interhospital transfer, public insurance, use of sitters or restraint, age, comorbid medical conditions, alcohol and substance use, diagnoses of autism, intellectual disability, developmental delay, and suicidal ideation. Data have not been captured in Vermont to identify factors that may be associated with longer wait times and that could help pinpoint solutions.

(10) Vermonters in the custody of the Commissioner of Corrections often do not have access to appropriate crisis or routine mental health supports or to inpatient care when needed, and are often held in correctional facilities after being referred for inpatient care due to the lack of access to inpatient beds. The General Assembly is working to address this aspect of the crisis through parallel legislation during the 2017–2018 biennium.

(11) Care provided by the designated agencies is the cornerstone upon which the public mental health system balances. However, many Vermonters seeking help for psychiatric symptoms at emergency departments are not clients of the designated or specialized service agencies and are meeting with the crisis response team for the first time. Some of the individuals presenting in emergency departments are able to be assessed, stabilized, and discharged to return home or to supportive programming provided by the designated and specialized service agencies.

(12) Act 79 specified that it was the intent of the General Assembly that “the [A]gency of [H]uman [S]ervices fully integrate all mental health services with all substance abuse, public health, and health care reform initiatives, consistent with the goals of parity.” However, reimbursement rates for crisis, outpatient, and inpatient care are often segregated from health care payment structures and payment reform.

(13) There is a shortage of psychiatric care professionals, both nationally and statewide. Psychiatrists working in Vermont have testified that they are distressed that individuals with psychiatric conditions remain for lengthy periods of time in emergency departments and that there is an overall lack of health care parity between mental conditions and other health conditions.

(14) In 2007, a study commissioned by the Agency of Human Services substantiated that designated and specialized service agencies face challenges in meeting the demand for services at current funding levels. It further found that keeping pace with current inflation trends, while maintaining existing caseload levels, required annual funding increases of eight percent across all payers to address unmet demand. Since that time, cost of living adjustments appropriated to designated and specialized service agencies have been raised by less than one percent annually.

(15) Designated and specialized service agencies are required by statute to provide a broad array of services, including many mandated services that are not fully funded.

(16) Evidence regarding the link between social determinants and healthy families has become increasingly clear in recent years. Improving an individual's trajectory requires addressing the needs of children and adolescents in the context of their family and support networks. This means Vermont must work within a multi-generational framework. While these findings primarily focus on the highest acuity individuals within the adult system, it is important also to focus on children's and adolescents' mental health. Social determinants, when addressed, can improve an individual's health; therefore housing, employment, food security, and natural support must be considered as part of this work as well.

(17) Before moving ahead with changes to improve mental health care and to achieve its integration with comprehensive health care reform, an analysis is necessary to take stock of how it is functioning and what resources are necessary for evidence-based or best practice and cost-efficient improvements that best meet the mental health needs of Vermont children, adolescents, and adults in their recovery.

(18) It is essential to the development of both short- and long-term improvements to mental health care for Vermonters that a common vision be established regarding how integrated, recovery-oriented services will emerge as part of a comprehensive and holistic health care system.

Sec. 2. LEGISLATIVE INTENT

It is the intent of the General Assembly to continue to work toward a system of health care that is fully inclusive of access to mental health care and meets the principles adopted in 18 V.S.A. § 7251, including:

(1) The State of Vermont shall meet the needs of individuals with mental health conditions, including the needs of individuals in the custody of the Commissioner of Corrections, and the State's mental health system shall reflect excellence, best practices, and the highest standards of care.

(2) Long-term planning shall look beyond the foreseeable future and present needs of the mental health community. Programs shall be designed to be responsive to changes over time in levels and types of needs, service delivery practices, and sources of funding.

(3) Vermont's mental health system shall provide a coordinated continuum of care by the Departments of Mental Health and of Corrections, designated hospitals, designated agencies, and community and peer partners to ensure that individuals with mental health conditions receive care in the most

integrated and least restrictive settings available. Individuals' treatment choices shall be honored to the extent possible.

(4) The mental health system shall be integrated into the overall health care system.

(5) Vermont's mental health system shall be geographically and financially accessible. Resources shall be distributed based on demographics and geography to increase the likelihood of treatment as close to the patient's home as possible. All ranges of services shall be available to individuals who need them, regardless of individuals' ability to pay.

(6) The State's mental health system shall ensure that the legal rights of individuals with mental health conditions are protected.

(7) Oversight and accountability shall be built into all aspects of the mental health system.

(8) Vermont's mental health system shall be adequately funded and financially sustainable to the same degree as other health services.

(9) Individuals with a psychiatric disability or mental condition who are in the custody or temporary custody of the Commissioner of Mental Health and who receive treatment in an acute inpatient hospital unit, intensive residential recovery facility, or a secure residential recovery facility shall be afforded rights and protections that reflect evidence-based best practices aimed at reducing the use of emergency involuntary procedures.

* * * Analysis, Action Plan, and Long-Term Vision Evaluation * * *

Sec. 3. ANALYSIS, ACTION PLAN, AND LONG-TERM VISION FOR THE PROVISION OF MENTAL HEALTH CARE WITHIN THE HEALTH CARE SYSTEM

(a) In order to address the present crisis that emergency departments are experiencing in treating an individual who presents with symptoms of a mental health crisis, and in recognition that this crisis is a symptom of larger systematic shortcomings in the provision of mental health services statewide, the General Assembly seeks an analysis and action plan from the Secretary of Human Services in accordance with the following specifications:

(1) On or before December 15, 2017, the Secretary of Human Services, in collaboration with the Commissioner of Mental Health, the Green Mountain Care Board, providers, and persons who are affected by current services, shall submit an action plan with recommendations and legislative proposals to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services that shall be informed by an analysis of

specific issues described in this section and Sec. 4 of this act. The analysis shall be conducted in conjunction with the planned updates to the Health Resource Allocation Plan (HRAP) described in 18 V.S.A. § 9405, of which the mental health and health care integration components shall be prioritized. With regard to children, adolescents, and adults, the analysis and action plan shall:

(A) specify steps to develop a common, long-term, statewide vision of how integrated, recovery-oriented services shall emerge as part of a comprehensive and holistic health care system;

(B) identify data that are not currently gathered, and that are necessary for current and future planning, long-term evaluation of the system, and for quality measurements, including identification of any data requiring legislation to ensure their availability;

(C) identify the causes underlying increased referrals and self-referrals for emergency services;

(D) identify gaps in services that affect the ability of individuals to access emergency psychiatric care;

(E) determine whether appropriate types of care are being made available as services in Vermont, including intensive and other outpatient services and services for transition age youths;

(F) determine the availability and regional accessibility of voluntary and involuntary hospital admissions, emergency departments, intensive residential recovery facilities, secure residential recovery facilities, crisis beds and other diversion capacities, crisis intervention services, peer respite and support services, and stable housing;

(G) identify barriers to efficient, medically necessary, recovery-oriented, patient care at levels of supports that are least restrictive and most integrated, and opportunities for improvement;

(H) incorporate existing information from research and from established quality metrics regarding emergency department wait times;

(I) incorporate anticipated demographic trends, the impact of the opiate crisis, and data that indicate short- and long-term trends; and

(J) identify the levels of resources necessary to attract and retain qualified staff to meet identified outcomes required of designated and specialized service agencies and specify a timeline for achieving those levels of support.

(2) On or before September 1, 2017, the Secretary shall submit a status report to the Senate Committee on Health and Welfare and to the House

Committees on Health Care and on Human Services describing the progress made in completing the analysis required pursuant to this subsection and producing a corresponding action plan. The status report shall include any immediate action steps that the Agency was able to take to address the emergency department crisis that did not require additional resources or legislation.

(b)(1) Data collected to inform the analysis and action plan regarding emergency services for persons with psychiatric symptoms or complaints, patients who are seeking voluntary assistance, and those under the temporary custody of the Commissioner shall include at least:

(A) the circumstances under which and reasons why a person is being referred or self-referred to emergency services;

(B) reports on the use of restraints, including chemical restraints;

(C) any criminal charges filed against an individual during emergency department waits;

(D) measurements shown by research to affect length of waits, such as homelessness, the need for an interhospital transfer, transportation arrangements, health insurance status, age, comorbid conditions, prior health history, and response time for crisis services and for the first certification of an emergency evaluation pursuant to 18 V.S.A. § 7504; and

(E) rates at which persons brought to emergency departments for emergency examinations pursuant to 18 V.S.A. §§ 7504 and 7505 are found not to be in need of inpatient hospitalization.

(2) Data to otherwise inform the action plan and preliminary analysis shall include short- and long-term trends in inpatient length of stay and readmission rates.

(3) Data for persons under 18 years of age shall be collected and analyzed separately.

(c) On or before January 15, 2019, the Secretary shall submit a comprehensive evaluation of the overarching structure for the delivery of mental health services within a sustainable, holistic health care system in Vermont to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services, including:

(1) whether the current structure is succeeding in serving Vermonters with mental health needs and meeting the goals of access, quality, and integration of services;

(2) whether quality and access to mental health services are equitable throughout Vermont;

(3) whether the current structure advances the long-term vision of an integrated, holistic health care system;

(4) how the designated and specialized service agency structure contributes to the realization of that long-term vision;

(5) how mental health care is being fully integrated into health care payment reform; and

(6) any recommendations for structural changes to the mental health system that would assist in achieving the vision of an integrated, holistic health care system.

Sec. 4. COMPONENTS OF ANALYSIS, ACTION PLAN, AND LONG-TERM VISION EVALUATION

The analysis, action plan, and long-term vision evaluation required by Sec. 3 of this act shall address the following:

(1) Care coordination. The analysis, action plan, and long-term vision evaluation shall address the potential benefits and costs of developing regional navigation and resource centers for referrals from primary care, hospital emergency departments, inpatient psychiatric units, correctional facilities, and community providers, including the designated and specialized service agencies, private counseling services, and peer-run services. The goal of regional navigation and resource centers is to foster improved access to efficient, medically necessary, and recovery-oriented patient care at levels of support that are least restrictive and most integrated for individuals with mental health conditions, substance use disorders, or co-occurring conditions. Consideration of regional navigation and resource centers shall include consideration of other coordination models identified during the preliminary analysis, including models that address the goal of an integrated health system.

(2) Accountability. The analysis, action plan, and long-term vision evaluation shall address the effectiveness of the Department's care coordination team in providing access to and adequate accountability for coordination and collaboration among hospitals and community partners for transition and ongoing care, including the judicial and corrections systems. An assessment of accountability shall include an evaluation of potential discrimination in hospital admissions at different levels of care and the extent to which individuals are served by their medical homes.

(3)(A) Crisis diversion evaluation. The analysis, action plan, and long-term vision evaluation shall evaluate:

(i) existing and potential new models, including the 23-hour bed

model, that prevent or divert individuals from the need to access an emergency department;

(ii) models for children, adolescents, and adults; and

(iii) whether existing programs need to be expanded, enhanced, or reconfigured, and whether additional capacity is needed.

(B) Diversion models used for patient assessment and stabilization, involuntary holds, diversion from emergency departments, and holds while appropriate discharge plans are determined shall be considered, including the extent to which they address psychiatric oversight, nursing oversight and coordination, peer support, security, and geographic access. If the preliminary analysis identifies a need for or the benefits of additional, enhanced, expanded, or reconfigured models, the action plan shall include preliminary steps necessary to identify licensing needs, implementation, and ongoing costs.

(4) Implementation of Act 79. The analysis, action plan, and long-term vision evaluation, in coordination with the work completed by the Department of Mental Health for its annual report pursuant to 18 V.S.A. § 7504, shall address whether those components of the system envisioned in 2012 Acts and Resolves No. 79 that have not been fully implemented remain necessary and whether those components that have been implemented are adequate to meet the needs identified in the preliminary analysis. Priority shall be given to determining whether there is a need to fund fully the 24-hour warm line and eight unutilized intensive residential recovery facility beds and whether other models of supported housing are necessary. If implementation or expansion of these components is deemed necessary in the preliminary analysis, the action plan shall identify the initial steps needed to plan, design, and fund the recommended implementation or expansion.

(5) Mental health access parity. The analysis, action plan, and long-term vision evaluation shall evaluate opportunities for and remove barriers to implementing parity in the manner that individuals presenting at hospitals are received, regardless of whether for a psychiatric or other health care condition. The evaluation shall examine: existing processes to screen and triage health emergencies; transfer and disposition planning; stabilization and admission; and criteria for transfer to specialized or long-term care services.

(6) Geriatric psychiatric support services, residential care, or skilled nursing unit or facility. The analysis, action plan, and long-term vision evaluation shall evaluate the extent to which additional support services are needed for geriatric patients in order to prevent hospital admissions or to facilitate discharges from inpatient settings, including community-based services, enhanced residential care services, enhanced supports within skilled nursing units or facilities, or new units or facilities. If the preliminary analysis

concludes that the situation warrants more home- and community-based services, a geriatric nursing home unit or facility, or any combination thereof, the action plan shall include a proposal for the initial funding phases and, if appropriate, siting and design, for one or more units or facilities with a focus on the clinical best practices for these patient populations. The action plan and preliminary analysis shall also include means for improving coordination and shared care management between Choices for Care and the designated and specialized service agencies.

(7) Forensic psychiatric support services or residential care. The analysis, action plan, and long-term vision evaluation shall evaluate the extent to which additional services or facilities are needed for forensic patients in order to enable appropriate access to inpatient care, prevent hospital admissions, or facilitate discharges from inpatient settings. These services may include community-based services or enhanced residential care services. The action plan and preliminary analysis shall be completed in coordination with other relevant assessments regarding access to mental health care for persons in the custody of the Commissioner of Corrections as required by the General Assembly during the first year of the 2017–2018 biennium.

(8) Units or facilities for use as nursing or residential homes or supportive housing. To the extent that the analysis indicates a need for additional units or facilities, it shall require consultation with the Commissioner of Buildings and General Services to determine whether there are any units or facilities that the State could be utilized for a geriatric skilled nursing or forensic psychiatric facility, an additional intensive residential recovery facility, an expanded secure residential recovery facility, or supportive housing.

(9) Designated and specialized service agencies. The analysis, action plan, and long-term vision evaluation shall estimate the levels of funding necessary to sustain the designated and specialized service agencies' workforce; enable the designated and specialized service agencies to meet their statutorily mandated responsibilities and required outcomes; identify the required outcomes; and establish recommended levels of increased funding for inclusion in the fiscal year 2019 budget.

Sec. 5. INVOLUNTARY TREATMENT AND MEDICATION REVIEW

(a) On or before December 15, 2017, the Secretary of Human Services, in collaboration with the Commissioner of Mental Health and the Chief Superior Judge, shall analyze and submit a report to the Senate Committee on Health and Welfare to the House Committee on Health Care regarding the role that involuntary treatment and psychiatric medication play in inpatient emergency department wait times, including any concerns arising from judicial timelines

and processes. The analysis shall examine gaps and shortcomings in the mental health system, including the adequacy of housing and community resources available to divert patients from involuntary hospitalization; treatment modalities, including involuntary medication and non-medication alternatives available to address the needs of patients in psychiatric crises; and other characteristics of the mental health system that contribute to prolonged stays in hospital emergency departments and inpatient psychiatric units. The analysis shall also examine the interplay between the rights of staff and patients' rights and the use of involuntary treatment and medication. Additionally, to provide the General Assembly with a wide variety of options, the analysis shall examine the following, including the legal implications, the rationale or disincentives, and a cost-benefit analysis for each:

(1) a statutory directive to the Department of Mental Health to prioritize the restoration of competency where possible for all forensic patients committed to the care of the Commissioner; and

(2) enabling applications for involuntary treatment and applications for involuntary medication to be filed simultaneously or at any point that a psychiatrist believes joint filing is necessary for the restoration of the individual's competency.

(b) On or before January 15, 2018, Vermont Legal Aid, Disability Rights Vermont, and Vermont Psychiatric Survivors shall have the opportunity to submit an addendum addressing the Secretary's report completed pursuant to subsection (a) of this section.

(c)(1) On or before November 15, 2017, the Department shall issue a request for information for a longitudinal study comparing the outcomes of patients who received court-ordered medications while hospitalized with those of patients who did not receive court-order medication while hospitalized, including both patients who voluntarily received medication and those who received no medication, for a period from 1998 to the present. The request for information shall specify that the study examine the following measures:

(A) the length of an individual's involuntary hospitalization

(B) the time spent by an individual in inpatient and outpatient settings;

(C) the number of an individual's hospital admissions, including both voluntary and involuntary admissions;

(D) the number of and length of time of an individual's residential placements;

(E) an individual's success in different types of residential settings;

(F) any employment or other vocational and educational activities after hospital discharge;

(G) any criminal charges after hospital discharge; and

(H) other parameters determined in consultation with representatives of inpatient and community treatment providers and advocates for the rights of psychiatric patients.

(2) Request for information proposals shall include estimated costs, time frames for conducting the work, and any other necessary information.

* * * Payment Structures * * *

Sec. 6. INTEGRATION OF PAYMENTS; ACCOUNTABLE CARE ORGANIZATIONS

(a) Pursuant to 18 V.S.A. § 9382, the Green Mountain Care Board shall review an accountable care organization's (ACO) model of care and integration with community providers, including designated and specialized service agencies, regarding how the model of care promotes seamless coordination across the care continuum, business or operational relationships between the entities, and any proposed investments or expansions to community-based providers. The purpose of this review is to ensure progress toward and accountability to the population health measures related to mental health and substance use disorder contained in the All Payer ACO Model Agreement.

(b) In the Board's annual report due on January 15, 2018, the Green Mountain Care Board shall include a summary of information relating to integration with community providers, as described in subsection (a) of this section, received in the first ACO budget review under 18 V.S.A. § 9382.

(c) On or before December 31, 2020, the Agency of Human Services, in collaboration with the Green Mountain Care Board, shall provide a copy of the report required by Section 11 of the All-Payer Model Accountable Care Organization Model Agreement, which outlines a plan for including the financing and delivery of community-based providers in delivery system reform, to the Senate Committee on Health and Welfare and the House Committee on Health Care.

Sec. 7. PAYMENTS TO THE DESIGNATED AND SPECIALIZED SERVICE AGENCIES

The Secretary of Human Services, in collaboration with the Commissioners of Mental Health and of Disabilities, Aging, and Independent Living; providers; and persons who are affected by current services, shall develop a plan to integrate multiple sources of payments for mental and substance abuse

services to the designated and specialized service agencies. In a manner consistent with Sec. 11 of this act, the plan shall implement a Global Funding model as a successor to the analysis and work conducted under the Medicaid Pathways and other work undertaken regarding mental health in health care reform. It shall increase efficiency and reduce the administrative burden. On or before January 1, 2018, the Secretary shall submit the plan and any related legislative proposals to the Senate Committee on Health and Welfare and the House Committees on Health Care and on Human Services.

Sec. 8. ALIGNMENT OF FUNDING WITHIN THE AGENCY OF HUMAN SERVICES

For the purpose of creating a more transparent system of public funding for mental health services, the Agency of Human Services shall continue with budget development processes enacted in legislation during the first year of the 2015–2016 biennium that unify payment for services, policies, and utilization review of services within an appropriate department consistent with Secs. 6 and 7 of this act.

* * * Workforce Development * * *

Sec. 9. MENTAL HEALTH, DEVELOPMENTAL DISABILITIES, AND SUBSTANCE USE DISORDER WORKFORCE STUDY COMMITTEE

(a) Creation. There is created the Mental Health, Developmental Disabilities, and Substance Use Disorder Workforce Study Committee to examine best practices for training, recruiting, and retaining health care providers and other service providers in Vermont, particularly with regard to the fields of mental health, developmental disabilities, and substance use disorders. It is the goal of the General Assembly to enhance program capacity in the State to address ongoing workforce shortages.

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

(1) the Secretary of Human Services or designee, who shall serve as the Chair;

(2) the Commissioner of Labor or designee;

(3) the Commissioner of Mental Health or designee;

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

(5) the Commissioner of Health or designee;

(6) a representative of the Vermont State Colleges;

(7) a representative of the Governor's Health Care Workforce Work Group created by Executive Order 07-13;

(8) a representative of persons affected by current services;

(9) a representative of the families of persons affected by current services;

(10) a representative of the designated and specialized service agencies appointed by Vermont Care Partners;

(11) the Director of Substance Abuse Prevention;

(12) a representative appointed by the Area Health Education Centers; and

(13) any other appropriate individuals by invitation of the Chair.

(c) Powers and duties. The Committee shall consider and weigh the effectiveness of loan repayment, tax abatement, long-term employment agreements, funded training models, internships, rotations, and any other evidence-based training, recruitment, and retention tools available for the purpose of attracting and retaining qualified health care providers in the State, particularly with regard to the fields of mental health, developmental disabilities, and substance use disorders.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Human Services.

(e) Report. On or before December 15, 2017, the Committee shall submit a report to the Senate Committee on Health and Welfare and the House Committees on Health Care and on Human Services regarding the results of its examination, including any legislative proposals for both long-term and immediate steps the State may take to attract and retain more health care providers in Vermont.

(f) Meetings.

(1) The Secretary of Human Services shall call the first meeting of the Committee to occur on or before July 1, 2017.

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

(3) The Committee shall cease to exist on December 31, 2017.

Sec. 10. OFFICE OF PROFESSIONAL REGULATION; INTERSTATE COMPACTS

The Director of Professional Regulation shall engage other states in a

discussion of the creation of national standards for coordinating the regulation and licensing of mental health professionals, as defined in 18 V.S.A. § 7101, for the purposes of licensure reciprocity and greater interstate mobility of that workforce. On or before September 1, 2017, the Director shall report to the Senate Committee on Health and Welfare and the House Committee on Health Care regarding the results of his or her efforts and recommendations for legislative action.

* * * Designated and Specialized Service Agencies * * *

Sec. 11. 18 V.S.A. § 8914 is added to read:

§ 8914. RATES OF PAYMENTS TO DESIGNATED AND SPECIALIZED SERVICE AGENCIES

(a) The Secretary of Human Services shall have sole responsibility for establishing the Departments of Health, of Mental Health, and of Disabilities, Aging, and Independent Living's rates of payments for designated and specialized service agencies and the Alcohol and Drug Abuse Program's preferred providers that are reasonable and adequate to achieve the required outcomes for designated populations. When establishing rates of payment for designated and specialized service agencies, the Secretary shall adjust rates to take into account factors that include:

(1) the reasonable cost of any governmental mandate that has been enacted, adopted, or imposed by any State or federal authority; and

(2) a cost adjustment factor to reflect changes in reasonable cost of goods and services of designated and specialized service agencies, including those attributed to inflation and labor market dynamics.

(b) When establishing rates of payment for designated and specialized service agencies and the Alcohol and Drug Abuse Program's preferred providers, the Secretary may consider geographic differences in wages, benefits, housing, and real estate costs in each region of the State.

Sec. 12. HEALTH INSURANCE; DESIGNATED AND SPECIALIZED SERVICE AGENCY EMPLOYEES

On or before September 1, 2017, the Commissioner of Human Resources shall consult with Blue Cross and Blue Shield of Vermont and Vermont Care Partners regarding the operational feasibility of including the designated and specialized service agencies in the State employees' health benefit plan and submit any findings and relevant recommendations for legislative action to the Senate Committees on Health and Welfare, on Government Operations, and on Finance and the House Committees on Health Care and on Government Operations.

* * * Effective Date * * *

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 11-0-0)

(For text see Senate Journal March 30, 2017)

Rep. Hooper of Montpelier, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Health Care.

(Committee Vote: 11-0-0)

S. 135

An act relating to promoting economic development

Rep. Botzow of Pownal, for the Committee on Commerce and Economic Development, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Vermont Employment Growth Incentive Program * * *

Sec. A.1. 32 V.S.A. chapter 105 is amended to read:

CHAPTER 105. VERMONT EMPLOYMENT GROWTH
INCENTIVE PROGRAM

* * *

§ 3332. APPLICATION; APPROVAL CRITERIA

(a) Application.

(1) A business may apply for an incentive in one or more years of an award period by submitting an application to the Council in the format the Council specifies for that purpose.

(2) For each award year the business applies for an incentive, the business shall:

(A) specify a payroll performance requirement;

(B) specify a jobs performance requirement or a capital investment performance requirement, or both; and

(C) provide any other information the Council requires to evaluate the application under this subchapter.

(b) Mandatory criteria. The Council shall not approve an application

unless it finds:

(1) Except as otherwise provided for an enhanced incentive for a business in a qualifying labor market area under section 3334 of this title, the new revenue the proposed activity ~~generates~~ would generate to the State ~~exceeds~~ would exceed the costs of the activity to the State.

(2) The host municipality welcomes the new business.

(3) The Pursuant to a self-certification or other documentation the Council requires by rule or procedure, the business attests to the best of its knowledge:

(A) the business is not a named party to an administrative order, consent decree, or judicial order issued by the State or a subdivision of the State, or if a named party, that the business is in compliance with the terms of such an order or decree;

(B) the business complies with applicable State laws and regulations; and

(C) the proposed economic activity ~~conforms~~ would conform to applicable town and regional plans and with applicable State laws and regulations.

(4) If the business proposes to expand within a limited local market, an incentive would not give the business an unfair competitive advantage over other Vermont businesses in the same or similar line of business and in the same limited local market.

(5) But for the incentive, the proposed economic activity:

(A) would not occur; or

(B) would occur in a significantly different manner that is significantly less desirable to the State.

* * *

§ 3334. ENHANCED INCENTIVE FOR A BUSINESS IN A QUALIFYING LABOR MARKET AREA

(a) The Council may increase the value of an incentive for a business that is located in a labor market area in which:

(1) the average annual unemployment rate is greater than the average annual unemployment rate for the State; or

(2) the average annual wage is less than the average annual wage for the State.

(b) In each calendar year, the amount by which the Council may increase the value of all incentives pursuant to this section is:

- (1) \$1,500,000.00 for one or more initial approvals; and
- (2) \$1,000,000.00 for one or more final approvals.

(c) The Council may increase the cap imposed in subdivision (b)(2) of this section by not more than \$500,000.00 upon application by the Governor to, and approval of, the Joint Fiscal Committee.

(d) In evaluating the Governor's request, the Committee shall consider the economic and fiscal condition of the State, including recent revenue forecasts and budget projections.

(e) The Council shall provide the Committee with testimony, documentation, company-specific data, and any other information the Committee requests to demonstrate that increasing the cap will create an opportunity for return on investment to the State.

(f) The purpose of the enhanced incentive for a business in a qualifying labor market area is to increase job growth in economically disadvantaged regions of the State, as provided in subsection (a) of this section.

§ 3335. ENHANCED INCENTIVE FOR ENVIRONMENTAL TECHNOLOGY BUSINESS

(a) As used in this section, an "environmental technology business" means a business that:

(1) is subject to income taxation in Vermont; and

(2) seeks an incentive for economic activity in Vermont that the Secretary of Commerce and Community Development certifies is primarily research, design, engineering, development, or manufacturing related to one or more of the following:

(A) waste management, including waste collection, treatment, disposal, reduction, recycling, and remediation;

(B) natural resource protection and management, including water and wastewater purification and treatment, air pollution control and prevention or remediation, soil and groundwater protection or remediation, and hazardous waste control or remediation;

(C) energy efficiency or conservation;

(D) clean energy, including solar, wind, wave, hydro, geothermal, hydrogen, fuel cells, waste-to-energy, or biomass.

(b) The Council shall consider and administer an application from an

environmental technology business pursuant to the provisions of this subchapter, except that:

(1) the business's potential share of new revenue growth shall be 90 percent; and

(2) to calculate qualifying payroll, the Council shall:

(A) determine the background growth rate in payroll for the applicable business sector in the award year;

(B) multiply the business's full-time payroll for the award year by 20 percent of the background growth rate; and

(C) subtract the product from the payroll performance requirement for the award year.

(c) The purpose of the enhanced incentive for an environmental technology business is to promote the growth of businesses in Vermont that both create and sustain high quality jobs and improve the natural environment.

* * *

§ 3338. CLAIMING AN INCENTIVE; ANNUAL FILING WITH
DEPARTMENT OF TAXES

(a) On or before April 30 following each year of the utilization period, a business with an approved application shall submit an incentive claim to the Department of Taxes.

(b) A business shall include:

(1) the information the Department requires, including the information required in section 5842 of this title and other documentation concerning payroll, jobs, and capital investment necessary to determine whether the business earned the incentive specified for an award year and any installment payment for which the business is eligible; and

(2) a self-certification or other documentation the Department requires by rule or procedure, by which the business attests to the best of its knowledge that:

(A) the business is not a named party to an administrative order, consent decree, or judicial order issued by the State or a subdivision of the State, or if a named party, that the business is in compliance with the terms of such an order or decree; and

(B) the business complies with applicable State laws and regulations.

(c) The Department may consider an incomplete claim to be timely filed if the business files a complete claim within the additional time allowed by the

Department in its discretion.

(d) Upon finalizing its review of a complete claim, the Department shall:

(1) notify the business and the Council whether the business is entitled to an installment payment for the applicable year; and

(2) make an installment payment to which the business is entitled.

(e) The Department shall not pay interest on any amounts it holds or pays for an incentive or installment payment pursuant to this subchapter.

§ 3339. RECAPTURE; REDUCTION; REPAYMENT

(a) Recapture.

(1) The Department of Taxes may recapture the value of one or more installment payments a business has claimed, with interest, if:

(A) the business fails to file a claim as required in section 3338 of this title; ~~or~~

(B) during the utilization period, the business experiences:

(i) a 90 percent or greater reduction from base employment; or

(ii) if it had no jobs at the time of application, a 90 percent or greater reduction from the sum of its job performance requirements; or

(C) the Department determines that during the application or claims process the business knowingly made a false attestation that the business:

(i) was not a named party to, or was in compliance with, an administrative order, consent decree, or judicial order issued by the State or a subdivision of the State: or

(ii) was in compliance with State laws and regulations.

(2) If the Department determines that a business is subject to recapture under subdivision (1) of this subsection, the business becomes ineligible to earn or claim an additional incentive or installment payment for the remainder of the utilization period.

(3) Notwithstanding any other statute of limitations, the Department may commence a proceeding to recapture amounts under subdivision (1) of this subsection as follows:

(A) under subdivision (1)(A) of this subsection, no later than three years from the last day of the utilization period; and

(B) under subdivision (1)(B) of this subsection, no later than three years from date the business experiences the reduction from base employment, or three years from the last day of the utilization period, whichever occurs

first.

(b) Reduction; recapture. If a business fails to make capital investments that equal or exceed the sum of its capital investment performance requirements by the end of the award period:

(1) The Department shall:

(A) calculate a reduced incentive by multiplying the combined value of the business's award period incentives by the same proportion that the business's total actual capital investments bear to the sum of its capital investment performance requirements; and

(B) reduce the value of any remaining installment payments for which the business is eligible by the same proportion.

(2) If the value of the installment payments the business has already received exceeds the value of the reduced incentive, then:

(A) the business becomes ineligible to claim any additional installment payments for the award period; and

(B) the Department shall recapture the amount by which the value of the installment payments the business has already received exceeds the value of the reduced incentive.

(c) Tax liability.

(1) A person who has the duty and authority to remit taxes under this title shall be personally liable for an installment payment that is subject to recapture under this section.

(2) For purposes of this section, the Department of Taxes may use any enforcement or collection action available for taxes owed pursuant to chapter 151 of this title.

* * *

§ 3341. CONFIDENTIALITY OF ~~PROPRIETARY~~ BUSINESS INFORMATION

(a) ~~The Vermont Economic Progress Council and the Department of Taxes shall use measures to protect proprietary financial information, including reporting information in an aggregate form.~~

(b) ~~Information~~ Except for information required to be reported under section 3340 of this title or as provided in this section, information and materials submitted by a business concerning its income taxes and other confidential financial information shall not be subject to public disclosure under the State's public records law in 1 V.S.A. chapter 5, but shall be to the

Vermont Economic Progress Council, or business-specific data generated by the Council as part of its consideration of an application under this subchapter, that is not otherwise publicly disclosed, is exempt from public inspection and copying under the Public Records Act and shall be kept confidential. Records related to incentive claims under this chapter that are produced or acquired by the Department of Taxes are confidential returns or return information and are subject to the provisions of section 3102 of this title.

(b)(1) The Council shall disclose information and materials described in subsection (a) of this section:

(A) to the Joint Fiscal Office or its agent upon authorization of the Joint Fiscal Committee or a standing committee of the General Assembly, and shall also be available; and

(B) to the Auditor of Accounts in connection with the performance of duties under section 163 of this title; provided, however, that the

(2) The Joint Fiscal Office or its agent and the Auditor of Accounts shall not disclose, directly or indirectly, to any person any proprietary business information or any information that would identify a business materials received under this subsection except in accordance with a judicial order or as otherwise specifically provided unless authorized by law.

(c) Nothing in this section shall be construed to prohibit the publication of statistical information, rulings, determinations, reports, opinions, policies, or other information so long as the data are disclosed in a form that cannot identify or be associated with a particular business.

* * *

* * * VEGI; Confidentiality * * *

Sec. A.2. 32 V.S.A. § 3102 is amended to read:

§ 3102. CONFIDENTIALITY OF TAX RECORDS

(a) No present or former officer, employee, or agent of the Department of Taxes shall disclose any return or return information to any person who is not an officer, employee, or agent of the Department of Taxes except in accordance with the provisions of this section. A person who violates this section shall be fined not more than \$1,000.00 or imprisoned for not more than one year, or both; and if the offender is an officer or employee of this State, he or she shall, in addition, be dismissed from office and be incapable of holding any public office for a period of five years thereafter.

* * *

(d) The Commissioner shall disclose a return or return information:

* * *

(5) to the Attorney General, if such return or return information relates to chapter 205 of this title or 33 V.S.A. chapter 19, subchapters 1A and 1B, for purposes of investigating potential violations of and enforcing 7 V.S.A. chapter 40, 20 V.S.A. chapter 173, subchapter 2A, and 33 V.S.A. chapter 19, subchapters 1A and 1B;

(6) to the Vermont Economic Progress Council, provided that the disclosure relates to a successful business applicant under chapter 105, subchapter 2 of this title and the incentive it has claimed is reasonably necessary for the Council to perform its duties under that subchapter.

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

* * *

(11) To the Joint Fiscal Office or its agent, provided that the disclosure relates to a successful business applicant under chapter 105, subchapter 2 of this title and the incentive it has claimed and is reasonably necessary for the Joint Fiscal Office or its agent to perform the duties authorized by the Joint Fiscal Committee or a standing committee of the General Assembly under that subchapter; to the Auditor of Accounts for the performance of duties under section 163 of this title; and to the Department of Economic Development for the purposes of subsection 5922(f) of this title; ~~and to the Vermont Economic Progress Council, provided that the disclosure relates to a successful business applicant under chapter 105, subchapter 2 of this title and the incentive it has claimed and is reasonably necessary for the Council to perform its duties under that subchapter.~~

* * *

* * * Rural Economic Development Infrastructure Districts; H.459 * * *

Sec. B.1. 24 V.S.A. chapter 138 is added to read:

CHAPTER 138. RURAL ECONOMIC DEVELOPMENT
INFRASTRUCTURE DISTRICTS

§ 5701. PURPOSE

The purpose of this chapter is to enable formation of special municipal districts to finance, own, and maintain infrastructure that provides economic development opportunities in rural and underresourced areas of the State, including areas within one or more municipalities. Specifically, this chapter provides mechanisms for public and private partnerships, including

opportunities for tax-incentivized financing and voluntary citizen engagement, to help overcome density and economic hardship.

§ 5702. ESTABLISHMENT; GENERAL PROVISIONS

(a) Establishment. Upon written application by 20 or more voters within a proposed district or upon its own motion, the legislative body of a municipality may establish a rural economic development infrastructure district. The application shall describe the infrastructure to be built or acquired; the plan for financing its acquisition; the anticipated economic benefit; the source of revenues for loan, bond, or lease payments; and plans for retention and disbursement of excess revenues, if any. The application also shall clearly state that the proposed district shall not have authority to levy taxes upon the grand list and may not levy service charges or fees upon any underlying municipality except for services used by such municipality, its own officers, and employees in the operation of municipal functions. Notice of establishment of a district shall be recorded as provided in subsection (e) of this section, posted in at least three public places within the municipality for at least 30 days, and published in a newspaper of general circulation within the municipality not more than 10 days from the date of establishment by the legislative body. Following 40 days from the later of the date of establishment by the legislative body of the municipality or an affirmative vote under subdivision (d)(1) or (2) of this section, the district shall be deemed to be a body politic and corporate, capable of exercising those powers and prerogatives explicitly granted by the legislative body of the municipality in accordance with this chapter and the district's establishment application.

(b) Districts involving more than one municipality. Where the limits of a proposed district include two or more municipalities, or portions of two or more municipalities, the application required by this section shall be made to and considered by the legislative body of each such municipality.

(c) Alteration of district limits. The legislative body of a municipality in which a district is located may alter the limits of a district upon application to the governing board of the district, provided the governing board gives prior written consent. A district expansion need not involve contiguous property. Notice of an alteration of the limits of a district shall be recorded as provided in subsection (e) of this section, posted in at least three public places within the municipality for at least 30 days, and published in a newspaper of general circulation within the municipality not more than 10 days from the date of the legislative body's decision to alter the limits of a district.

(d)(1) Contestability. If a petition signed by five percent of the voters of the municipality objecting to the proposed establishment or alteration of limits of a district is presented to the municipal clerk within 30 days of the date of

posting and publication of the notice required by subsection (a) or (c) of this section, as applicable, the legislative body of the municipality shall cause the question of whether the municipality shall establish or alter the limits of the district to be considered at a meeting called for that purpose. The district shall be established in accordance with the application or the limits altered unless a majority of the voters of the municipality present and voting votes to disapprove such establishment or alteration of limits.

(2) If a petition signed by five percent of the voters of the municipality objecting to a legislative body's decision denying the establishment or the alteration of limits of a district is presented to the municipal clerk within 30 days of the legislative body's decision, the legislative body shall cause the question of whether the municipality shall establish or alter the limits of the district to be considered at an annual or special meeting called for that purpose.

(e) Recording. A record of the establishment of a district and any alteration of district limits made by a legislative body shall be filed with the clerk of each municipality in which the district is located, and shall be recorded with the Secretary of State.

§ 5703. LIMITATIONS; TAXES; INDEBTEDNESS; EMINENT DOMAIN

Notwithstanding any grant of authority in this chapter to the contrary:

(1) A district shall not accept funds generated by the taxing or assessment power of any municipality in which it is located.

(2) A district shall not have the power to levy, assess, apportion, or collect any tax upon property within the district, nor upon any of its underlying municipalities, without specific authorization of the General Assembly.

(3) All obligations of the district, including financing leases, shall be secured by and payable only out of the assets of or revenues or monies in the district, including revenue generated by an enterprise owned or operated by the district.

(4) A district shall not have powers of eminent domain.

§ 5704. GOVERNING BOARD; COMPOSITION; MEETINGS; REPORT

(a) Governing board. The legislative power and authority of a district and the administration and the general supervision of all fiscal, prudential, and governmental affairs of a district shall be vested in a governing board, except as otherwise specifically provided in this chapter.

(b) Composition. The first governing board of the district shall consist of four to eight members appointed in equal numbers by the legislative bodies of

the underlying municipalities. It shall draft the district's bylaws specifying the size, composition, quorum requirements, and manner of appointing members to the permanent governing board. The bylaws shall require that a majority of the board shall be appointed annually by the legislative bodies of the underlying municipalities. Board members shall serve staggered, three-year terms, and shall be eligible to serve successive terms. The legislative bodies of the municipalities in which the district is located shall fill board vacancies, and may remove board members at will. Any bylaws developed by the governing board under this subsection shall be submitted for approval to the legislative bodies of the municipalities within the district and shall be considered duly adopted 45 days from the date of submission, provided none of the legislative bodies disapprove of the bylaws.

(c) First meeting. The first meeting of the district shall be called upon 30 days' posted and published notice by a presiding officer of a legislative body in which the district is located. Voters within a municipality in which the district is located are eligible to vote at annual and special district meetings. At the first meeting of the district, and at each subsequent annual meeting, there shall be elected from among board members a chair, vice chair, clerk, and treasurer who shall assume their respective offices upon election. At the first meeting, the fiscal year of the district shall be established and rules of parliamentary procedure shall be adopted. Prior to assuming their offices, officers may be required to post bond in such amounts as determined by resolution of the board. The cost of such bond shall be borne by the district.

(d) Annual and special meetings. Unless otherwise established by the voters, the annual district meeting shall be held on the second Monday in January and shall be warned by the clerk or, in the clerk's absence or neglect, by a member of the board. Special meetings shall be warned in the same manner on application in writing by five percent of the voters of the district. A warning for a district meeting shall state the business to be transacted. The time and place of holding the meeting shall be posted in two or more public places in the district not more than 40 days nor less than 30 days before the meeting and recorded in the office of the clerk before the same is posted.

(e) Annual report. The district shall report annually to the legislative bodies and the citizens of the municipalities in which the district is located on the results of its activities in support of economic growth, job creation, improved community efficiency, and any other benefits incident to its activities.

§ 5705. OFFICERS

(a) Generally. The district shall elect at its first meeting and at each annual meeting thereafter a chair, vice chair, clerk, and treasurer, who shall hold

office until the next annual meeting and until others are elected. The board may fill a vacancy in any office.

(b) Chair. The chair shall preside at all meetings of the board and make and sign all contracts on behalf of the district upon approval by the board. The chair shall perform all duties incident to the position and office as required by the general laws of the State.

(c) Vice chair. During the absence of or inability of the chair to render or perform his or her duties or exercise his or her powers, the same shall be performed and exercised by the vice chair and when so acting, the vice chair shall have all the powers and be subject to all the responsibilities given to or imposed upon the chair. During the absence or inability of the vice chair to render or perform his or her duties or exercise his or her powers, the board shall elect from among its members an acting vice chair who shall have the powers and be subject to all the responsibilities given or imposed upon the vice chair.

(d) Clerk. The clerk shall keep a record of the meetings, votes, and proceedings of the district for the inspection of its inhabitants.

(e) Treasurer. The treasurer of the district shall be appointed by the board, and shall serve at its pleasure. The treasurer shall have the exclusive charge and custody of the funds of the district and shall be the disbursing officer of the district. When warrants are authorized by the board, the treasurer may sign, make, or endorse in the name of the district all checks and orders for the payment of money and pay out and disburse the same and receipt therefor. The treasurer shall keep a record of every obligation issued and contract entered into by the district and of every payment made. The treasurer shall keep correct books of account of all the business and transactions of the district and such other books and accounts as the board may require. The treasurer shall render a statement of the condition of the finances of the district at each regular meeting of the board and at such other times as required of the treasurer. The treasurer shall prepare the annual financial statement and the budget of the district for distribution, upon approval of the board, to the legislative bodies of district members. Upon the treasurer's termination from office by virtue of removal or resignation, the treasurer shall immediately pay over to his or her successor all of the funds belonging to the district and at the same time deliver to the successor all official books and papers.

§ 5706. AUDIT

Once the district becomes operational, the board shall cause an audit of the financial condition of the district to be performed annually by an independent professional accounting firm. The results of the audit shall be provided to the governing board and to the legislative bodies of the municipalities in which the

district is located.

§ 5707. COMMITTEES

The board has authority to establish one or more committees and grant and delegate to them such powers as it deems necessary. Members of an executive committee shall serve staggered terms and shall be board members. Membership on other committees established by the board is not restricted to board members.

§ 5708. DISTRICT POWERS

A district created under this chapter has the power to:

(1) exercise independently and in concert with other municipalities any other powers which are necessary or desirable for the installation, ownership, operation, maintenance, and disposition of infrastructure promoting economic development in rural areas and matters of mutual concern and that are exercised or are capable of exercise by any of its members;

(2) enter into municipal financing agreements as provided by sections 1789 and 1821-1828 of this title, or other provisions authorizing the pledge of district assets or net revenue, or alternative means of financing capital improvements and operations;

(3) purchase, sell, lease, own, acquire, convey, mortgage, improve, and use real and personal property in connection with its purpose;

(4) enter into contracts for any term or duration;

(5) operate, cause to be operated, or contract for the construction, ownership, management, financing, and operation of an enterprise which a municipal corporation is authorized by law to undertake;

(6) hire employees and fix the compensation and terms of employment;

(7) contract with individuals, corporations, associations, authorities, and agencies for services and property, including the assumption of the liabilities and assets thereof, provided that no assumed liability shall be a general obligation of a municipality in which the district is located;

(8) contract with the State of Vermont, the United States of America, or any subdivision or agency thereof for services, assistance, and joint ventures;

(9) contract with any municipality for the services of any officers or employees of that municipality useful to it;

(10) promote cooperative arrangements and coordinated action among its members and other public and private entities;

(11) make recommendations for review and action to its members and

other public agencies that perform functions within the region in which its members are located;

(12) sue and be sued; provided, however, that the property and assets of the district, other than such property as may be pledged as security for a district obligation, shall be subject to levy, execution, or attachment;

(13) appropriate and expend monies; provided, however, that no appropriation shall be funded or made in reliance upon any taxing authority of the district;

(14) establish sinking and reserve funds for retiring and securing its obligations;

(15) establish capital reserve funds and make deposits in them;

(16) solicit, accept, and administer gifts, grants, and bequests in trust or otherwise for its purpose;

(17) enter into an interstate compact consistent with the purposes of this chapter, subject to the approval of the Vermont General Assembly and the United States Congress;

(18) develop a public sewer or water project, provided the legislative body and the planning commission for the municipality in which the sewer or water project is proposed to be located confirm in writing that such project conforms with any duly adopted municipal plan, and the regional planning commission confirms in writing that such project conforms with the duly adopted regional plan;

(19) exercise all powers incident to a public corporation, but only to the extent permitted in this chapter;

(20) adopt a name under which it shall be known and shall conduct business; and

(21) make, establish, alter, amend, or repeal ordinances, regulations, and bylaws relating to matters contained in this chapter and not inconsistent with law.

§ 5709. DISSOLUTION

(a) If the board by resolution approved by a two-thirds vote determines that it is in the best interests of the public, the district members, and the district that such district be dissolved, and if the district then has no outstanding obligations under pledges of district assets or revenue, long-term contracts, or contracts subject to annual appropriation, or will have no such debt or obligation upon completion of the plan of dissolution, it shall prepare a plan of dissolution and thereafter adopt a resolution directing that the question of such

dissolution and the plan of dissolution be submitted to the voters of the district at a special meeting thereof duly warned for such purpose. If a majority of the voters of the district present and voting at such special meeting shall vote to dissolve the district and approve the plan of dissolution, the district shall cease to conduct its affairs except insofar as may be necessary for the winding up of them. The board shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the district and to the Secretary of State and shall proceed to collect the assets of the district and apply and distribute them in accordance with the plan of dissolution.

(b) The plan of dissolution shall:

(1) identify and value all unencumbered assets;

(2) identify and value all encumbered assets;

(3) identify all creditors and the nature or amount of all liabilities and obligations;

(4) identify all obligations under long-term contracts and contracts subject to annual appropriation;

(5) specify the means by which assets of the district shall be liquidated and all liabilities and obligations paid and discharged, or adequate provision made for the satisfaction of them;

(6) specify the means by which any assets remaining after discharge of all liabilities shall be liquidated if necessary; and

(7) specify that any assets remaining after payment of all liabilities shall be apportioned and distributed among the district members according to a formula based upon population.

(c) When the plan of dissolution has been implemented, the board shall adopt a resolution certifying that fact to the district members whereupon the district shall be terminated, and notice thereof shall be delivered to the Secretary of the Senate and the Clerk of the House of Representatives in anticipation of confirmation of dissolution by the General Assembly.

* * * Public Retirement * * *

Sec. C.1. THE GREEN MOUNTAIN SECURE RETIREMENT PLAN

(a) The State of Vermont shall, consistent with federal law and regulation, adopt and implement a voluntary Multiple Employer Plan (MEP) public retirement plan, which shall remain in compliance with federal law and regulations once implemented, and shall be called the "Green Mountain Secure Retirement Plan."

(b) The Plan shall be designed and implemented based upon the following

guiding principles:

(1) Simplicity: the Plan should be easy for participants to understand.

(2) Affordability: the Plan should be administered to maximize cost effectiveness and efficiency.

(3) Ease of access: the Plan should be easy to join.

(4) Trustworthy oversight: the Plan should be administered by an organization with unimpeachable credentials.

(5) Protection from exploitation: the Plan should protect its participants, particularly the elderly, from unscrupulous business practices and individuals.

(6) Portability: the Plan should not depend upon employment with a specific firm or organization.

(7) Choice: the Plan should provide sufficient investment alternatives to be suitable for individuals with distinct goals, but not too many options to induce analysis paralysis.

(8) Voluntary: the Plan should not be mandatory but autoenrollment should be used to increase participation.

(9) Financial education and financial literacy: the Plan should assist the individual in understanding their financial situation.

(10) Sufficient savings: the Plan should encourage adequate savings in retirement combined with existing pension savings and Social Security.

(11) Additive not duplicative: the Plan should not compete with existing private sector solutions.

(12) Use of pretax dollars: contributions to the Plan should be made using pretax dollars.

(c) The Plan shall:

(1) be available on a voluntary basis to:

(A) employers:

(i) with 50 employees or fewer; and

(ii) who do not currently offer a retirement plan to their employees; and

(B) self-employed individuals;

(2) automatically enroll all employees of employers who choose to participate in the MEP;

(3) allow employees the option of withdrawing their enrollment and ending their participation in the MEP;

(4) be funded by employee contributions with an option for future voluntary employer contributions; and

(5) be overseen by a board:

(A) that shall:

(i) set program terms;

(ii) prepare and design plan documents; and

(iii) be authorized to appoint an administrator to assist in the selection of investments, managers, custodians, and other support services; and

(B) that shall be composed of seven members as follows:

(i) an individual with investment experience, to be appointed by the Governor;

(ii) an individual with private sector retirement plan experience, to be appointed by the Governor;

(iii) an individual with investment experience, to be appointed by the State Treasurer;

(iv) an individual who is an employee or retiree, to be appointed by the State Treasurer;

(v) an individual who is an employee advocate or consumer advocate, to be appointed by the Speaker of the House;

(vi) an individual who is an employer with 50 employees or fewer and who does not offer a retirement plan to his or her employees, to be appointed by the Committee on Committees; and

(vii) the State Treasurer, who shall serve as chair.

(C) that shall, on or before January 15, 2020, and every year thereafter, report to the House and Senate Committees on Government Operations concerning the Green Mountain Secure Retirement Plan, including:

(i) the number of employers and self-employed individuals participating in the plan;

(ii) the total number of individuals participating in the plan;

(iii) the number of employers and self-employed individuals who are eligible to participate in the plan but who do not participate;

(iv) the number of employers and self-employed individuals, and

the number of employees of participating employers. who have ended their participation during the preceding twelve months;

(v) the total amount of funds contributed to the Plan during the preceding twelve months;

(vi) the total amount of funds withdrawn from the Plan during the preceding twelve months;

(vii) the total funds or assets under management by the Plan;

(viii) the average return during the preceding twelve months;

(ix) the costs of administering the Plan;

(x) the Board's assessment concerning whether the Plan is sustainable and viable;

(xi) once the marketplace is established:

(I) the number of individuals participating;

(II) the number and nature of plans offered; and

(III) the Board's process and criteria for vetting plans; and

(xii) any other information the Board considers relevant, or that the Committee requests.

(D) for attendance at meetings, members of the Board who are not employees of the State of Vermont, and who are not otherwise compensated by their employer or other organization, shall be reimbursed at the per diem rate set in 32 V.S.A. § 1010 and shall be reimbursed for mileage and travel expenses.

(d) The State of Vermont shall implement the "Green Mountain Secure Retirement Plan" on or before January 15, 2019, based on the recommendations of the Public Retirement Plan Study Committee as set forth in Sec. F.1 of 2016 Acts and Resolves, No. 157.

Sec. C.2. 2016 Acts and Resolves No. 157, Sec. F.1 is amended to read:

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

(a) Creation of Committee.

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

(2) It is the intent of the General Assembly that the Committee continue the work of the Public Retirement Plan Study Committee created in 2014 Acts and Resolves No. 179, Sec. C.108, as amended by 2015 Acts and Resolves

No. 58, Sec. C.100, which ceased to exist on January 15, 2016, and to develop specific recommendations concerning the design, creation, and implementation of the Multiple Employer Plan (MEP), pursuant to Sec. C.1 of S.135 (2017) as enacted and as set forth in the January 6, 2017 report issued by the Committee.

(b) Membership.

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

(A) the State Treasurer or designee;

(B) the Commissioner of Labor or designee;

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

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

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

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

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

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

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

(c) Powers and duties.

(1)(A) The Committee shall study the feasibility of establishing a develop specific recommendations concerning the design, creation, and implementation time line of the Multiple Employer Plan (MEP) public retirement plan, including the following pursuant to Sec. C.1 of S.135 (2017) as enacted, which shall:

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

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

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

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

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

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

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

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

~~(I) employers:~~

~~(aa) with 50 employees or fewer; and~~

~~(bb) who do not currently offer a retirement plan to their employees; and~~

~~(II) self-employed individuals;~~

~~(ii) automatically enroll all employees of employers who choose to participate in the MEP;~~

~~(iii) allow employees the option of withdrawing their enrollment and ending their participation in the MEP;~~

~~(iv) be funded by employee contributions with an option for future voluntary employer contributions; and~~

~~(v) be overseen by a board that shall:~~

~~(I) set programs terms;~~

~~(II) prepare and design plan documents; and~~

~~(III) be authorized to appoint an administrator to assist in the~~

selection of investments, managers, custodians, and other support services.

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

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

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

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

~~(iv) whether such a plan should impose any obligation or liability upon private sector employers; The Committee, and thereafter the board that will oversee the MEP, shall study and make specific recommendations concerning:~~

~~(i) options to provide access to retirement plans to individuals who are not eligible to participate in, or choose not to participate in, the MEP public retirement plan, including alternative plans and options vetted by the board that shall oversee the MEP, and which private sector plans and options shall be provided through a marketplace implemented no earlier than one year after the MEP begins;~~

~~(ii) options for paying for the costs of administering the MEP for the period during which program costs may exceed revenues, including allowing financial service providers to subsidize costs in exchange for longer term contracts;~~

~~(iii) if after three years there remain significant numbers of Vermonters who are not covered by a retirement plan, methods to increase participation in the MEP; and~~

~~(iv) any other issue the Committee deems relevant.~~

(2) The Committee shall:

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

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

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

(3) The Committee shall have the assistance of the staff of the Office of

the Treasurer, the Department of Labor, and the Department of Disabilities, Aging, and Independent Living.

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

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

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

* * * Workers' Compensation; VOSHA * * *

Sec. D.1. 21 V.S.A. § 210 is amended to read:

§ 210. PENALTIES

(a) Upon issuance of a citation under this chapter, the Review Board is authorized to assess civil penalties for grounds provided in this subsection. In assessing civil penalties, the Review Board shall follow to the degree practicable the federal procedures prescribed in rules ~~promulgated~~ adopted under the Act. The Review Board shall give due consideration to the appropriateness of the penalty with respect to the size of the business or operation of the employer being assessed, the gravity of the violation, the good faith of the employer, and the history of previous violations. Civil penalties shall be paid to the Commissioner for deposit with the State Treasurer, and may be recovered in a civil action in the name of the State of Vermont brought in any court of competent jurisdiction. The Commissioner shall not reduce the assessed penalties in any fiscal year by more than 50 percent.

(1) Any employer who willfully or repeatedly violates the requirements of this Code or any standard, or rule adopted, or order ~~promulgated~~ issued pursuant to this Code ~~or regulations prescribed pursuant to this Code~~ may be assessed a civil penalty of not more than ~~\$70,000.00~~ \$126,749.00 for each violation, but not less than \$5,000.00 for each willful violation.

(2) Any employer who has received a citation for a serious violation of

the requirements of this Code, or any standard, or rule adopted, or order ~~promulgated~~ issued pursuant to this Code, ~~or of any regulations prescribed pursuant to this Code~~, shall be assessed a civil penalty of up to ~~\$7,000.00~~ \$12,675.00 for each violation.

(3) Any employer who has received a citation for a violation of the requirements of this Code, or any standard, or rule adopted, or order ~~promulgated~~ issued pursuant to this Code ~~or of regulations prescribed pursuant to this Code~~, and ~~such violation if the violation~~ is specifically determined not to be of a serious nature, may be assessed a civil penalty of up to ~~\$7,000.00~~ \$12,675.00 for each such violation.

(4) Any employer who fails to correct a violation for which a citation has been issued within the period permitted for its correction, which period shall not begin to run until the date of the final order of the Review Board, in the case of any review proceeding under section 226 of this title initiated by the employer in good faith and not solely for delay or avoidance of penalties, may be assessed a civil penalty of not more than ~~\$7,000.00~~ \$12,675.00 for each day during which the failure or violation continues.

(5) Any employer who willfully violates any standard, or rule adopted, or order ~~promulgated~~ issued pursuant to this Code, and that violation caused death to any employee, shall, upon conviction, be punished by a fine of not more than ~~\$20,000.00~~ \$126,749.00 or by imprisonment for not more than one year, or by both.

* * *

(8) Any employer who violates any of the posting requirements, as prescribed under the provisions of this Code, shall be assessed a civil penalty of up to ~~\$7,000.00~~ \$12,675.00 for each violation.

(9)(A) As provided under the federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and the Act, the penalties provided in subdivisions (1), (2), (3), (4), (5), and (8) of this subsection shall annually, on January 1, be adjusted to reflect the increase in the Consumer Price Index, CPI-U, U.S. City Average, not seasonally adjusted, as calculated by the U.S. Department of Labor or successor agency for the 12 months preceding the previous December 1.

(B) The Commissioner shall calculate and publish the adjustment to the penalties on or before January 1 of each year, and the penalties shall apply to fines imposed on or after that date.

* * *

Sec. D.2. 21 V.S.A. § 711 is amended to read:

§ 711. WORKERS' COMPENSATION ADMINISTRATION FUND

(a) A Workers' Compensation Administration Fund is created pursuant to 32 V.S.A. chapter 7, subchapter 5 to be expended by the Commissioner for the administration of the workers' compensation and occupational disease programs. The Fund shall consist of contributions from employers made at a rate of ~~1.75~~ 1.4 percent of the direct calendar year premium for workers' compensation insurance, one percent of self-insured workers' compensation losses, and one percent of workers' compensation losses of corporations approved under this chapter. Disbursements from the Fund shall be on warrants drawn by the Commissioner of Finance and Management in anticipation of receipts authorized by this section.

* * *

* * * Workforce Development; Career Technical Education * * *

Sec. E.1. 10 V.S.A. § 540 is amended to read:

§ 540. ~~WORKFORCE EDUCATION AND TRAINING~~ DEVELOPMENT
LEADER

(a) The Commissioner of Labor shall be the leader of workforce ~~education and training~~ development in the State, and shall have the authority and responsibility for the coordination of workforce education and training within State government, including the following duties:

(1) Perform the following duties in consultation with the State Workforce Development Board:

(A) advise the Governor on the establishment of an integrated system of workforce education and training for Vermont;

(B) create and maintain an inventory of all existing workforce education and training programs and activities in the State;

(C) use data to ensure that State workforce education and training activities are aligned with the needs of the available workforce, the current and future job opportunities in the State, and the specific credentials needed to achieve employment in those jobs;

(D) develop a State plan, as required by federal law, to ensure that workforce education and training programs and activities in the State serve Vermont citizens and businesses to the maximum extent possible;

(E) ensure coordination and ~~non-duplication~~ nonduplication of workforce education and training activities;

(F) identify best practices and gaps in the delivery of workforce

education and training programs;

(G) design and implement criteria and performance measures for workforce education and training activities; and

(H) establish goals for the integrated workforce education and training system.

(2) Require from each business, training provider, or program that receives State funding to conduct workforce education and training a report that evaluates the results of the training. Each recipient shall submit its report on a schedule determined by the Commissioner and shall include at least the following information:

(A) name of the person who receives funding;

(B) amount of funding;

(C) activities and training provided;

(D) number of trainees and their general description, including the gender of the trainees when available;

(E) employment status of trainees; and

(F) future needs for resources.

(3) Review reports submitted by each recipient of workforce education and training funding.

(4) Issue an annual report to the Governor and the General Assembly on or before December 1 that includes a systematic evaluation of the accomplishments of the State workforce investment system and the performance of participating agencies and institutions.

(5) Coordinate public and private workforce programs to assure that information is easily accessible to students, employees, and employers; and that all information and necessary counseling is available through one contact.

(6) Facilitate effective communication between the business community and public and private educational institutions.

(7) Notwithstanding any provision of State law to the contrary, and to the fullest extent allowed under federal law, ensure that in each State and State-funded workforce education and training program, the program administrator collects and reports data and results at the individual level by Social Security Number or an equivalent.

(8) Coordinate within and across State government a comprehensive workforce development strategy that grows the workforce, recruits new workers to the State, and meets employers' workforce needs.

Sec. E.2. 10 V.S.A. § 543 is amended to read:

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

(a) Creation. There is created a the Workforce Education and Training Fund in the Department of Labor to be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

(b) Purposes. The Department shall use the Fund for the following purposes:

(1) training for Vermont workers, including those who are unemployed, underemployed, or in transition from one job or career to another;

(2) internships to provide students with work-based learning opportunities with Vermont employers;

(3) apprenticeship, preapprenticeship, and industry-recognized credential training; and

(4) other workforce development initiatives related to current and future job opportunities in Vermont as determined by the Commissioner of Labor.

(c) Administrative and other support. The Department of Labor shall provide administrative support for the grant award process. When appropriate and reasonable, the State Workforce ~~Investment~~ Development Board and all other public entities involved in economic development and workforce education and training shall provide other support in the process.

(d) Eligible activities.

(1) The Department, in collaboration with the Agency of Education when applicable, shall grant awards from the Fund to employers and entities, including private, public, and nonprofit entities, institutions of higher education, high schools, K–12 school districts, supervisory unions, technical centers, and workforce education and training programs that:

(A) create jobs, offer education, training, apprenticeship, preapprenticeship and industry-recognized credentials, mentoring, career planning, or work-based learning activities, or any combination;

(B) employ student-oriented approaches to workforce education and training; and

(C) link workforce education and economic development strategies.

(2) The Department may fund programs or projects that demonstrate actual increased income and economic opportunity for employees and employers for more than one year.

(3) The Department may fund student internships and training programs that involve the same employer in multiple years, with approval of the Commissioner.

(e) [Repealed].

(f) Awards. The Commissioner of Labor, in consultation with the Chair of the State Workforce Development Board, shall develop award criteria and may grant awards to the following:

(1) Training Programs.

(A) Public, private, and nonprofit entities, including employers and education and training providers, for existing or new training programs that enhance the skills of Vermont workers and:

(i) train workers for trades or occupations that are expected to lead to jobs paying at least 200 percent of the current minimum wage or at least 150 percent if benefits are included; this requirement may be waived when warranted based on regional or occupational wages or economic reality;

(ii) do not duplicate, supplant, or replace other available training funded with public money;

(iii) provide a project timeline, including performance goals, and identify how the effectiveness and outcomes of the program will be measured, including for the individual participants, the employers, and the program as a whole; and

(iv) articulate the need for the training and the direct connection between the training and the job.

(B) The Department shall grant awards under this subdivision (1) to programs or projects that:

(i) offer innovative programs of intensive, student-centric, competency-based education, training, apprenticeship, preapprenticeship and industry-recognized credentials, mentoring, or any combination of these;

(ii) address the needs of workers who are unemployed, underemployed, or are at risk of becoming unemployed, and workers who are in transition from one job or career to another;

(iii) address the needs of employers to hire new employees, or retrain incumbent workers, when the employer has demonstrated a need not within the normal course of business, with priority to training that results in new or existing job openings for which the employer intends to hire; or

(iv) in the discretion of the Commissioner, otherwise serve the purposes of this chapter.

(2) Vermont Strong Internship Program. Funding for eligible internship programs and activities under the Vermont Strong Internship Program established in section 544 of this title.

(3) Apprenticeship Program. The Vermont Apprenticeship Program established under 21 V.S.A. chapter 13. Awards under this subdivision may be used to fund the cost of apprenticeship-related instruction provided by the Department of Labor.

(4) Career Focus and Planning programs. In collaboration with the Agency of Education, funding for one or more programs that institute career training and planning for young Vermonters, beginning in middle school.

Sec. E.3. 3. V.S.A. § 2703 is added to read:

§ 2703. CAREER PATHWAYS COORDINATOR

(a) The Secretary of Administration shall have the authority to create the position of Career Pathways Coordinator within the Agency of Education.

(b) The Career Pathways Coordinator shall work under the direction of the State Director for Career Technical Education, and his or her duties shall include the following:

(1) serve as the inter-agency point person for the development of a State-approved Career Pathways System;

(2) convene stakeholders across the Department of Labor, the Agency of Commerce and Community Development, Agency of Education, Agency of Human Services, the Statewide Workforce Development Board, Career Technical Education, employers, postsecondary partners and related entities in order to create a series Career Pathways;

(3) curriculum development, stakeholder engagement, process documentation, and identification of key performance indicators, outcomes collection and reporting;

(4) engage statewide education, employer, and workforce organizations to co-develop statewide career pathways models and exemplars;

(5) identify target populations and entry points;

(6) review and develop competency models, required skill sets, and appropriate credentials at each step of a career pathway, in partnership with business and industry representatives;

(7) coordinate employer validation of competencies and pathways;

(8) develop targeted career ladders and lattices, including stackable skills and industry-recognized credentials;

(9) work with CTE Directors to design and endorse elements of Career Pathways;

(10) use labor market information and other relevant data to identify critical Career Pathways for the State; and

(11) advise the Career Technical Education Director on the funding, governance, and access to career technical education in Vermont.

* * * Heating Fuel and Service Workforce Training Pilot Project * * *

Sec. E.4. HEATING FUEL AND SERVICE WORKFORCE TRAINING

PILOT PROJECT

(a) Findings and purpose.

(1) Vermont's heating fuel and heating service companies provide high-skill, high-demand jobs, many of which do not require a college degree but pay over \$20 per hour and include benefits.

(2) Vermont's heating fuel and heating service companies have a significant need for new employees. More than two-thirds of these companies report that there is a lack of qualified applicants for heating technician jobs, and more than half report a lack of qualified drivers.

(3) The purpose of this section is to create a partnership between the State and the industry to identify prospective employees, provide them with training and skills necessary for currently available jobs, and provide employers with a skilled workforce.

(b) The Department of Labor, in collaboration with the regional Career Technical Education and Training Centers and the Vermont Fuel Dealers Association, shall establish a Heating Fuel and Service Workforce Training Pilot Project, consistent with the following:

(1) The Department, CTE Centers, Adult Technical Education Providers, and the Association shall:

(A) advertise the availability of workforce training in the field of heating fuel and service;

(B) organize informational sessions, meetings, and other group and individual opportunities for prospective trainees and interested heating and fuel service companies to connect; and

(C) coordinate matches between trainees and employers.

(2) In the event of a successful match, the Department shall facilitate the negotiation and execution of training and employment agreements, pursuant to which:

(A) a prospective trainee agrees to pursue specified training, education, or certification necessary to meet the employer's workforce need;

(B) the Department agrees to provide educational and administrative support to the trainee and 50 percent of the cost of training; and

(C) the employer agrees to provide 50 percent of the cost of training and to employ the trainee upon the successful completion of training, passage of an examination, attainment of a required certification, or a combination of these.

(3) The Association, in collaboration with the CTE Centers and subject to approval by the Department, shall provide education and training that meet the needs of trainees and employers.

(c) The Department shall have the authority to use available private, State, and federal funding to implement the provisions of this section.

(d) On or before January 15, 2018, the Department shall submit a report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development addressing the implementation of this section, the profile of trainees and employers that participated, and any recommendations for further action.

* * * CTE Dual Enrollment; H.391 * * *

Sec. E.5. CTE DUAL ENROLLMENT MEMORANDA OF UNDERSTANDING

(a) Intent. The intent of this act is to expand the recognition of academic and technical course work completed by students in CTE programs by the University of Vermont and the Vermont State Colleges.

(b) Dual enrollment.

(1) Pursuant to 16 V.S.A. § 944(e), the Agency of Education shall assist the University of Vermont and the Vermont State Colleges in developing memoranda of understanding with each regional CTE center and each comprehensive high school, as defined in 16 V.S.A. § 1522, to facilitate dual enrollment under section 944.

(2) The University of Vermont and the Vermont State Colleges shall enter into memoranda of understanding, as developed with the Agency, with each regional CTE center.

(3) On or before January 15, 2018, the Secretary of Education shall provide a progress report on the status of the memoranda of understanding to the House and Senate Committees on Education, the House Committee on Commerce and Economic Development, and the Senate Committee on

Economic Development, Housing and General Affairs.

Sec. F.1. BENEFIT CLIFF; REPORT

(a) The Commissioner for Children and Families, in consultation with the Joint Fiscal Office, shall evaluate the State's public benefit structure and recommend methods for mitigating or eliminating the benefit cliffs experienced by working Vermonters receiving public assistance.

(b) On or before January 15, 2018, the Commissioner shall submit a report with the results of this evaluation to the House Committees on Human Services, on Commerce and Economic Development, and on Ways and Means and to the Senate Committees on Economic Development, Housing and General Affairs, on Finance, and on Health and Welfare.

(c) The Commissioner may seek the assistance of the Office of Legislative Council in drafting a recommended legislative proposal arising out of the analysis conducted pursuant to this section.

* * * Financial Technology * * *

Sec. G.1. FINANCIAL TECHNOLOGY

(a) The General Assembly finds:

(1) The field of financial technology is rapidly expanding in scope and application.

(2) These developments present both opportunities and challenges.

(3) On the opportunity side, Vermont has been a leader in previous innovations in finance in contexts such as captive insurance.

(4) The existing Vermont legislation on blockchain technology and other aspects of e-finance have given Vermont the potential for leadership in this new era of innovation as well, with the possibility of expanded economic activity in the financial technology sector that would provide opportunities for employment, tax revenues, and other benefits.

(5) Furthermore, it is important for Vermonters that these developments proceed in ways that do not create avoidable risks for individuals and enterprises in the new e-economy.

(6) The legislative and regulatory response in Vermont will be critical to our ability to embrace the benefits of financial technology and to avoid challenges it may create.

(b)(1) In order to permit the legislature to respond to these developing opportunities and concerns on an informed basis, on or before November 30, 2017, the Center for Legal Innovation at Vermont Law School, in consultation

with the Commissioner of Financial Regulation, the Secretary of Commerce and Community Development, and the Attorney General, shall submit a report to the General Assembly that includes:

(A) findings and recommendations on the potential opportunities and risks presented by developments in financial technology;

(B) suggestions for an overall policy direction and proposals for legislative and regulatory action that would effectively implement that policy direction; and

(C) measurable goals and outcomes that would indicate success in the implementation of such a policy.

(2) In developing the background for this report, the Center, Commissioner, Secretary, and Attorney General may consult such other constituencies and stakeholders within and outside the State as they may determine will be helpful to their considerations.

* * * Municipal Outreach; Sewerage and Water Service Connections * * *

Sec. H.1. AGENCY OF NATURAL RESOURCES; EDUCATION AND
OUTREACH; DELEGATION; SEWERAGE AND WATER
SERVICE CONNECTIONS

(a) The Secretary of Natural Resources, after consultation with the Vermont League of Cities and Towns, shall conduct outreach and education for municipalities regarding the ability of a municipality under 10 V.S.A. § 1976 to be delegated the authority to permit the connection of a municipal sewer or water service line to subdivided land, a building, or a campground.

(b) The education and outreach shall specify the conditions or requirements for delegation, how a municipality can seek delegation, and contact information or other resource to provide additional information regarding delegation. The education and outreach may include educational materials, workshops, or classes regarding the ability of a municipality to be delegated under 10 V.S.A. § 1976 the permitting of sewer and water service connection.

(c) On or before January 15, 2018, the Secretary of Natural Resources shall submit a report to the Senate Committees on Natural Resources and Energy and on Economic Development, Housing and General Affairs and the House Committees on Natural Resources, Fish and Wildlife and on Commerce and Economic Development summarizing the education and outreach conducted or planned by the Secretary under the requirements of this section and whether any municipality has sought delegation of sewer and water service connection permitting under 10 V.S.A. § 1976 since the effective date of this act.

* * * Municipal Land Use and Development; Affordable Housing * * *

Sec. H.2. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

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

(1) “Affordable housing” means either of the following:

(A) ~~Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household’s gross annual income.~~ Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

(B) ~~Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household’s gross annual income.~~ Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:

(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;

(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of

Housing and Urban Development; or

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

* * * Act 250; Priority Housing Projects * * *

Sec. H.3. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

In this chapter:

* * *

(3)(A) “Development” means each of the following:

* * *

(iv) The construction of housing projects such as cooperatives, condominiums, or dwellings, or construction or maintenance of mobile homes or mobile home parks, with 10 or more units, constructed or maintained on a tract or tracts of land, owned or controlled by a person, within a radius of five miles of any point on any involved land, and within any continuous period of five years. However:

(I) A priority housing project shall constitute a development under this subdivision (iv) only if the number of housing units in the project is:

(aa) ~~275 or more, in a municipality with a population of 15,000 or more; [Repealed.]~~

(bb) ~~150 or more, in a municipality with a population of 10,000 or more but less than 15,000; [Repealed.]~~

(cc) 75 or more, in a municipality with a population of 6,000 or more but less than 10,000;

(dd) 50 or more, in a municipality with a population of 3,000 or more but less than 6,000;

(ee) 25 or more, in a municipality with a population of less than 3,000; ~~and~~

(ff) ~~notwithstanding~~ Notwithstanding subdivisions (aa)(cc) through (ee) of this subdivision (3)(A)(iv)(I), 10 or more if the construction involves the demolition of one or more buildings that are listed on or eligible to be listed on the State or National Register of Historic Places. However, demolition shall not be considered to create jurisdiction under this subdivision if the Division for Historic Preservation has determined that the proposed

demolition will have no adverse effect, will have no adverse effect if specified conditions are met, or will have an adverse effect that will be adequately mitigated. Any imposed conditions shall be enforceable through a grant condition, deed covenant, or other legally binding document.

(II) The determination of jurisdiction over a priority housing project shall count only the housing units included in that discrete project.

(III) Housing units in a priority housing project shall not count toward determining jurisdiction over any other project.

* * *

(D) The word “development” does not include:

* * *

(viii)(I) The construction of a priority housing project in a municipality with a population of 10,000 or more.

(II) If the construction of a priority housing project in this subdivision (3)(D)(viii) involves demolition of one or more buildings that are listed or eligible to be listed on the State or National Register of Historic Places, this exemption shall not apply unless the Division for Historic Preservation has made the determination described in subdivision (A)(iv)(I)(ff) of this subdivision (3) and any imposed conditions are enforceable in the manner set forth in that subdivision.

* * *

(27) “Mixed income housing” means a housing project in which the following apply:

(A) Owner-occupied housing. At the option of the applicant, owner-occupied housing may be characterized by either of the following:

(i) at least 15 percent of the housing units have a purchase price ~~which~~ that at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or

(ii) at least 20 percent of the housing units have a purchase price ~~which~~ that at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency;

(B) Rental ~~Housing~~ housing. At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of ~~no~~ not less than ~~20~~ 15 years.

(28) “Mixed use” means construction of both mixed income housing and construction of space for any combination of retail, office, services, artisan, and recreational and community facilities, provided at least 40 percent of the gross floor area of the buildings involved is mixed income housing. “Mixed use” does not include industrial use.

(29) “Affordable housing” means either of the following:

~~(A) Housing that is owned by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes, insurance, and condominium association fees is not more than 30 percent of the household’s gross annual income. Owner-occupied housing for which the total annual cost of ownership, including principal, interest, taxes, insurance, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 120 percent of the highest of the following:~~

~~(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;~~

~~(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or~~

~~(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.~~

~~(B) Housing that is rented by its inhabitants whose gross annual household income does not exceed 80 percent of the county median income, or 80 percent of the standard metropolitan statistical area income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development, and the total annual cost of the housing, including rent, utilities, and condominium association fees, is not more than 30 percent of the household’s gross annual income. Rental housing for which the total annual cost of renting, including rent, utilities, and condominium association fees, does not exceed 30 percent of the gross annual income of a household at 80 percent of the highest of the following:~~

~~(i) the county median income, as defined by the U.S. Department of Housing and Urban Development;~~

~~(ii) the standard metropolitan statistical area median income if the municipality is located in such an area, as defined by the U.S. Department of Housing and Urban Development; or~~

(iii) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

(35) “Priority housing project” means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a designated downtown development district, designated new town center, designated growth center, or designated village center that is also a designated neighborhood development area under 24 V.S.A. chapter 76A; or

(B) mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.

* * *

Sec. H.4. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

(a) No person shall sell or offer for sale any interest in any subdivision located in this State, or commence construction on a subdivision or development, or commence development without a permit. This section shall not prohibit the sale, mortgage, or transfer of all, or an undivided interest in all, of a subdivision unless the sale, mortgage, or transfer is accomplished to circumvent the purposes of this chapter.

* * *

(o) If a ~~downtown development district~~ designation pursuant to 24 V.S.A. ~~§ 2793 chapter 76A~~ is removed, subsection (a) of this section shall apply to any subsequent substantial change to a priority housing project that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title on the basis of that designation.

(p)(1) No permit or permit amendment is required for any change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below ~~the~~ any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title.

(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district if

the project remains below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a priority housing project will not comply with one or more of these conditions, an application may be filed pursuant to section 6084 of this title.

* * *

Sec. H.5. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS, COMMENCEMENT OF
REVIEW

* * *

(f) This subsection concerns an application for a new permit amendment to change the conditions of an existing permit or existing permit amendment in order to authorize the construction of a priority housing project described in subdivision 6081(p)(2) of this title.

(1) The District Commission may authorize a district coordinator to issue such an amendment, without notice and a hearing, if the applicant demonstrates that all parties to the existing permit or existing permit amendment, which contains the condition or conditions proposed to be changed, or their successors in interest have consented to the proposed changes to conditions relative to the criteria for which the party obtained party status.

(2) If the applicant is not able to obtain the consent of a party or parties or their successors in interest with respect to one or more of the conditions in the existing permit or permit amendment proposed to be changed, the applicant shall file a permit application pursuant to this section. However, review by the District Commission shall be limited to whether the changes to conditions not consented to by the party or parties or their successors in interest enable positive findings to be made under subsection 6086(a) and are authorized under subsection 6086(c) of this title.

Sec. H.6. 30 V.S.A. § 55 is added to read:

§ 55. PRIORITY HOUSING PROJECTS; STRETCH CODE

A priority housing project as defined in 10 V.S.A. § 6001 shall meet or exceed the stretch codes established under this subchapter by the Department of Public Service.

* * * ACCD; Publication of Median Household Income and Qualifying Costs
for Affordable Housing * * *

Sec. H.7. 3 V.S.A. § 2472 is amended to read:

§ 2472. DEPARTMENT OF HOUSING AND COMMUNITY
DEVELOPMENT

(a) The Department of Housing and Community Development is created within the Agency of Commerce and Community Development. The Department shall:

* * *

(5) In conjunction with the Vermont Housing Finance Agency, annually publish data and information to enable the public to determine income levels and costs for owner-occupied and rental housing to qualify as affordable housing, as defined in 24 V.S.A. § 4303 and 10 V.S.A. § 6001(29), including:

(A) the median income for each Vermont county, as defined by the U.S. Department of Housing and Urban Development;

(B) the standard metropolitan statistical area median income for each municipality located in such an area, as defined by the U.S. Department of Housing and Urban Development; and

(C) the statewide median income, as defined by the U.S. Department of Housing and Urban Development.

* * *

* * * Downtown Tax Credits * * *

Sec. H.8. 32 V.S.A. § 5930ee is amended to read:

§ 5930ee. LIMITATIONS

Beginning in fiscal year 2010 and thereafter, the State Board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) the total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed ~~\$2,200,000.00~~ \$2,400,000.00;

* * *

* * * Tax Credit for Affordable Housing; Captive Insurance Companies * * *

Sec. H.9. 32 V.S.A. § 5930u is amended to read:

§ 5930u. TAX CREDIT FOR AFFORDABLE HOUSING

(a) As used in this section:

* * *

(5) "Credit certificate" means a certificate issued by the allocating agency to a taxpayer that specifies the amount of affordable housing tax credits

that can be applied against the taxpayer's individual or corporate income tax, or franchise, captive insurance premium, or insurance premium tax liability as provided in this subchapter.

* * *

(c) Amount of credit. A taxpayer who makes an eligible cash contribution shall be entitled to claim against the taxpayer's individual income, corporate, franchise, captive insurance premium, or insurance premium tax liability a credit in an amount specified on the taxpayer's credit certificate. The first-year allocation of a credit amount to a taxpayer shall also be deemed an allocation of the same amount in each of the following four years.

* * *

* * * Vermont State Housing Authority; Powers * * *

Sec. H.10. 24 V.S.A. § 4005 is amended to read:

§ 4005. VERMONT STATE HOUSING AUTHORITY; ESTABLISHMENT,
MEMBERS, POWERS

* * *

(e) Notwithstanding any provision of law, no person, ~~domestic or foreign~~, shall be authorized to administer allocations of money under 42 U.S.C.A. § 1437a or 1437f or other federal statute authorizing rental subsidies for the benefit of persons of low or moderate income, except:

- (1) ~~a subcontractor of the State Authority; or~~
- (2) a State public body authorized by law to administer such allocations;
- (3) a person authorized to administer such allocations pursuant to an agreement with the State Authority; or
- (4) an organization, of which the State Authority is a promoter, member, associate, owner, or manager, that is authorized by a federal agency to administer such allocations in this State.

(f) In addition to the powers granted by this chapter, the State Authority shall have all the powers necessary or convenient for the administration of federal monies pursuant to subsection (e) of this section, including the power:

- (1) to enter into one or more agreements for the administration of federal monies;
- (2) to be a promoter, partner, member, associate, owner, or manager of any partnership, limited liability company, joint venture, association, trust, or other organization;

(3) to conduct its activities, locate offices, and exercise the powers granted by this title within or outside this State;

(4) to carry on a business in the furtherance of its purposes; and

(5) to do all things necessary or convenient, consistent with law, to further the activities and affairs of the Authority.

* * * Repeal of Sunset on Sales and Use Tax Exemption;

Airplanes and Airplane Parts * * *

Sec. I.1. REPEALS

The following are repealed:

(1) 2007 Acts and Resolve No. 81, Secs. 7a (amendment to sales tax exemption for aircraft parts) and 7b (effective date).

(2) 2008 Acts and Resolve No. 190, Sec. 43 (effective date).

* * * Tax Increment Financing Districts * * *

Sec. J. TAX INCREMENT FINANCING; FINDINGS

The General Assembly finds that the State of Vermont has an important role to play in creating the infrastructure necessary to support downtown development and revitalization, particularly in distressed communities.

Sec. J.1. 24 V.S.A. chapter 53, subchapter 5 is amended to read:

Subchapter 5. Tax Increment Financing

* * *

§ 1892. CREATION OF DISTRICT

* * *

(d) ~~The following municipalities have been authorized to use education tax increment financing for a tax increment financing district, and the Vermont Economic Progress Council is not authorized to approve any additional tax increment financing districts even if one of the districts named in this subsection is terminated pursuant to subsection 1894(a) of this subchapter:~~

(1) the City of Burlington, Downtown;

(2) the City of Burlington, Waterfront;

(3) the Town of Milton, North and South;

(4) the City of Newport;

(5) the City of Winooski;

(6) the Town of Colchester;

- (7) the Town of Hartford;
- (8) the City of St. Albans;
- (9) the City of Barre; ~~and~~
- (10) the Town of Milton, Town Core; and
- (11) the City of South Burlington, New Town Center.

* * *

§ 1894. POWER AND LIFE OF DISTRICT

* * *

(c) Use of the municipal property tax increment. For only debt incurred within the period permitted under subdivision (a)(1) of this section after creation of the district, and related costs, not less than an equal share plus five percent of the municipal tax increment pursuant to subsection (f) of this section shall be retained to service the debt, beginning the first year in which debt is incurred, pursuant to subsection (b) of this section.

* * *

(f) Equal share required. If any tax increment utilization is approved pursuant to 32 V.S.A. § 5404a(h), no more than 75 percent of the State property tax increment and no less than an equal percent, plus five percent, of the municipal tax increment may be approved by the Council or used by the municipality to service this debt.

* * *

Sec. J.2. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT
FINANCING DISTRICTS

* * *

(f) A municipality that establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties contained within the district and apply up to 75 percent of the State education property tax increment, and not less than an equal share plus five percent of the municipal tax increment, as defined in 24 V.S.A. § 1896₂ to repayment of financing of the improvements and related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by the Vermont Economic Progress Council pursuant to this section, subject to the following:

(1) In a municipality with one or more approved districts, the Council shall not approve an additional district until the municipality retires the debt

incurred for all of the districts in the municipality.

(2) The Council shall not approve more than two districts in a single county, and not more than an additional 14 districts in the State, provided:

(A) The districts listed in 24 V.S.A. § 1892(d) shall not be counted against the limits imposed in this subdivision (2).

(B) The Council shall consider complete applications in the order they are submitted, except that if during any calendar month the Council receives applications for more districts than are actually available in a county, the Council shall evaluate each application and shall approve the application that, in the Council's discretion, best meets the economic development needs of the county.

(C) If, while the General Assembly is not in session, the Council receives applications for districts that would otherwise qualify for approval but, if approved, would exceed the 14-district limit in the State, the Council shall make one or more presentations to the Emergency Board concerning the applications, and the Emergency Board may, in its discretion, increase the 14-district limit.

(3)(A) A municipality shall immediately notify the Council if it resolves not to incur debt for an approved district within five years of approval or a five-year extension period as required in 24 V.S.A. § 1894.

(B) Upon receiving notification pursuant to subdivision (3)(A) of this subsection, the Council shall terminate the district and may approve a new district, subject to the provisions of this section and 24 V.S.A. chapter 53, subchapter 5.

(4) The Council shall not approve any additional districts on or after July 1, 2024.

(5) Prior to January 1, 2019, the Council shall not accept or approve an application for a district within a county that has five or more approved districts.

* * *

(h) Criteria for approval. To approve utilization of incremental revenues pursuant to subsection (f) of this section, the Vermont Economic Progress Council shall do all the following:

(1) Review each application to determine that the ~~new real property~~ proposed infrastructure improvements and the proposed development would not have occurred or would have occurred in a significantly different and less desirable manner but for the proposed utilization of the incremental tax revenues. The review shall take into account:

(A) the amount of additional time, if any, needed to complete the proposed development within the tax increment district and the amount of additional cost that might be incurred if the project were to proceed without education property tax increment financing;

(B) how the proposed development components and size would differ, if at all, without education property tax increment financing, including, if applicable to the development, the number of units of affordable housing, as defined in 24 V.S.A. § 4303; and

(C) the amount of additional revenue expected to be generated as a result of the proposed development; the percentage of that revenue that shall be paid to the education fund; the percentage that shall be paid to the municipality; and the percentage of the revenue paid to the municipality that shall be used to pay financing incurred for development of the tax increment financing district.

(2) Process requirements. Determine that each application meets all of the following four requirements:

(A) The municipality held public hearings and established a tax increment financing district in accordance with 24 V.S.A. §§ 1891-1900.

(B) The municipality has developed a tax increment financing district plan, including: a project description; a development financing plan; a pro forma projection of expected costs; a projection of revenues; a statement and demonstration that the project would not proceed without the allocation of a tax increment; evidence that the municipality is actively seeking or has obtained other sources of funding and investment; and a development schedule that includes a list, a cost estimate, and a schedule for public improvements and projected private development to occur as a result of the improvements.

(C) The municipality has approved or pledged the utilization of incremental municipal tax revenues for purposes of the district in the same proportion as the utilization of education property tax revenues approved by the Vermont Economic Progress Council for the tax increment financing district.

(D) The proposed infrastructure improvements and the projected development or redevelopment are compatible with approved municipal and regional development plans, and the project has clear local and regional significance for employment, housing, and transportation improvements.

(3) Location criteria. Determine that each application meets one of the following criteria:

(A) The development or redevelopment is compact, high density, and located in or near existing industrial areas.

(B) The proposed district is within an approved growth center, designated downtown, designated village center, ~~or~~ new town center, or neighborhood development area.

(C) The development will occur in an area that is economically distressed, which for the purposes of this subdivision means that the ~~area has experienced patterns of increasing unemployment, a drop in average wages, or a decline in real property values~~ municipality in which the area is located has at least one of the following:

(i) a median family income that is not more than 80 percent of the statewide median family income as reported by the Vermont Department of Taxes for the most recent year for which data is available;

(ii) an annual average unemployment rate that is at least one percent greater than the latest annual average statewide unemployment rate as reported by the Vermont Department of Labor; or

(iii) a median sales price for residential properties under six acres that is not more than 80 percent of the statewide median sales price for residential properties under six acres as reported by the Vermont Department of Taxes.

(4) Project criteria. Determine that the proposed development within a tax increment financing district will accomplish at least ~~three~~ two of the following ~~five~~ four criteria:

~~(A) The development within the tax increment financing district clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures.~~

~~(B) The development includes new or rehabilitated affordable housing that is affordable to the majority of the residents living within the municipality and is developed at a higher density than at the time of application. “Affordable” has the same meaning as in 10 V.S.A. § 6001(29), as defined in 24 V.S.A. § 4303.~~

~~(C)~~(B) The project will affect the remediation and redevelopment of a brownfield located within the district. As used in this section, “brownfield” means an area in which a hazardous substance, pollutant, or contaminant is or may be present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.

~~(D)~~(C) The development will include at least one entirely new business or business operation or expansion of an existing business within the district, and this business will provide new, ~~quality~~ high-quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the department of labor.

~~(E)~~(D) The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.

* * *

Sec. J.3. IMPLEMENTATION

Secs. J.1 and J.2 of this act shall apply only to tax increment financing district applications filed, and districts approved, on or after the date of passage of this act.

* * * Climate Economy Accelerator; H.398 * * *

Sec. K.1. FINDINGS AND PURPOSE

(a) Findings. The General Assembly finds:

(1) Vermont needs to attract and support entrepreneurs, youths, and investors to reinvigorate its economy, today and for the future.

(2) Vermont has a tremendous opportunity to systematically advance economic activity that addresses the challenge of climate change by reducing and mitigating carbon impacts, while spurring innovation and creativity, encouraging entrepreneurship, attracting youths, and building jobs for the future.

(3) Vermont's unique environmental image, strong brand recognition nationally, quality of life, and history of entrepreneurship and invention provides an opportunity to position the State as a premier place to establish new businesses whose mission, products, and services can help society and our economy mitigate the effects of climate change.

(4) The goal of quality job creation as part of the State's economic development policy is dependent on providing support for the start-up and expansion of small businesses sectors of our economy.

(5) The Vermont Sustainable Jobs Fund, the Vermont Council on Rural Development, and a working group of business, finance, and economic development leaders, are developing the Climate Economy Business Accelerator Program to grow entrepreneurial opportunities and provide a network for businesses to promote their solutions, products, and services that can lead to collaboration and innovation.

(6) The Accelerator Program aims to accelerate the creation and growth of entrepreneurs that commercialize business solutions to address the negative impacts of climate change and position our State as the place to come and build businesses that export solutions for a changing climate worldwide.

(7) Nationally, business accelerators have led to the growth of start-up

companies, job creation, and enhanced entrepreneurial activity in a region. Most accelerators are located in major cities and throughout Canada. There are over 150 business accelerators in the United States at this time.

(8) Neither Vermont, nor other New England States, have an accelerator program to support start-up businesses and serve the needs of both rural and urban businesses.

(9) In early 2017 a climate change-related accelerator will launch in Philadelphia with a focus on technology development related to agriculture and water.

(10) The Vermont Sustainable Jobs Fund program (VSJF) was created in 1995 to accelerate the development of Vermont's green economy. Per its enabling statute, VSJF focuses its development efforts on particular economic sectors by supporting the business assistance and financing needs of businesses in these sectors.

(11) To date, VSJF has concentrated on working with early-stage and growth-stage businesses in the green economy, primarily due to a lack of sufficient funding support to work with start-up businesses. Additional funding for VSJF's Accelerator Program will enable it to fulfill its statutory mission.

(12) A State investment of seed funding would leverage additional private and philanthropic investment to carry out this work and boost economic development, innovation, and job creation.

(b) Purpose. The purpose of Sec. K.2 of this act is to create a statutory framework to authorize the creation of the Climate Economy Business Accelerator Program capable of attracting and retaining young entrepreneurs in the State and to position Vermont as a national leader in climate economy innovation.

Sec. K.2. 10 V.S.A. § 331 is added to read:

§ 331. CLIMATE ECONOMY BUSINESS ACCELERATOR PROGRAM

(a) Definition. In this section "climate economy" means the work performed by businesses whose products and services are designed to reduce, mitigate, or prepare for the negative impacts of climate change on human systems, including:

(1) clean energy development and distribution;

(2) thermal and electrical efficiencies in buildings and building construction;

(3) evolving public and private transportation systems;

- (4) energy and efficiency innovations in the working lands economy;
- (5) recycling, reuse, and renewal of resources; and
- (6) resilience technologies, such as soil-sensing devices.

(b) Program implementation. The Vermont Sustainable Jobs Fund shall have the authority to design and implement a Climate Economy Business Accelerator Program as follows:

(1) Assemble a team of experienced program partners, mentors, investors, and business content providers to design and deliver a high quality experience to Accelerator Program cohort participants.

(2) Recruit and select a cohort of at least 10 start-up and early-stage businesses to participate together in a three-to-four-month intensive program of training, mentoring, and investment opportunities.

(3) Assist cohort members in clarifying the market for their products, evaluating the needs of their management teams, defining their business models, articulating their unique values, and securing needed investment capital.

(4) Develop an evaluation and metrics capture process compatible with Results-Based Accountability and begin tracking results.

(5) Develop a network of climate economy related businesses to work alongside the Accelerator Program in order to connect cohort members with the business community to spark business-to-business collaboration, stimulate additional job growth in the climate economy sector, and provide ongoing support as their businesses mature.

(6) Raise additional program funding as needed from sponsors, partners, private foundations, and federal agencies to leverage State general funds.

(c) Outcomes. The outcomes of the Program shall include:

(1) Increase the success rate of start-up businesses in the climate economy sector in Vermont.

(2) Create jobs in the climate economy sector.

(3) Attract and retain young entrepreneurs who develop climate economy businesses in Vermont to serve local, national, and global markets.

(4) Attract equity and venture capital to emerging climate economy start-up businesses in Vermont.

* * * Opportunity Economy; H.480 * * *

Sec. L.1. MICROBUSINESS DEVELOPMENT PROGRAM; FINDINGS;
APPROPRIATION

(a) Findings. The General Assembly finds:

(1) Since 1989, the Microbusiness Development Program has provided free business technical assistance, including training and counseling, as well as access to capital to Vermonters with low income.

(2) The Vermont Community Action Agencies work in conjunction with many partners, including other service providers, State agencies, business technical assistance providers, and both traditional and alternative lenders.

(3) Each year the Program:

(A) enables the creation or expansion of an average of 145 businesses across Vermont;

(B) supports the creation of 84 new jobs; and

(C) provides access to more than \$1,100,000.00 in capital.

(4) The average cost per job created through the Program is less than \$3,600.00.

(b) Intent. It is the intent of the General Assembly to provide additional funding, subject to available resources, for the regional Microbusiness Development Programs pursuant to 3 V.S.A. § 3722.

Sec. L.2. FINANCIAL EDUCATION, COACHING, AND

CREDIT-BUILDING SERVICES; FINDINGS; APPROPRIATION

(a) Findings. The General Assembly finds:

(1) To overcome barriers to financial security, “Financial Capability” education and coaching services empower people to stabilize their finances, set goals and work to achieve them, and sustain successful financial behaviors over time.

(2) The knowledge and skills gained by Vermonters with low income enable them better to manage scarce resources, repair or build credit, and establish or strengthen connections to financial institutions.

(3) Recent studies show that 10 hours of financial education can yield a savings of \$1,390.00 per year for participants, a substantial sum for families living in poverty.

(4) Additionally, a recent national study found that 58 percent of individuals with low-to-moderate income receiving financial coaching and credit-building services had their credit score increase as a result.

(5) These services in Vermont can and have been customized to meet the particular needs of families participating in Reach Up.

(b) It is the intent of the General Assembly to provide funding, subject to available resources, to enable more Vermonters with low income to access these services.

* * * Funding Priorities * * *

Sec. M.1. SMALL BUSINESS DEVELOPMENT CENTER

In fiscal year 2018, it is the intent of the General Assembly to provide funding, subject to available resources, to the Vermont Small Business Development Center (SBDC) as follows:

(1) for the purpose of increasing the number of SBDC business advisors, with priority to underserved regions of the State; and

(2) for the purpose of fully funding the SBDC technology commercialization advisor position.

Sec. M.2. ECONOMIC DEVELOPMENT MARKETING

(a) The Agency of Commerce and Community Development shall have the authority, and may use available funds, to:

(1) implement the Department of Economic Development's economic development marketing plan to attract and retain residents and businesses to Vermont, highlighting the many positive features that make Vermont a great place to live, work, and do business; and

(2) prioritize marketing tactics with the potential to shift most efficiently and effectively perceptions about Vermont as a place to live and work, and that will form a set of marketing assets and strategic framework to sustain Department of Economic Development activities beyond initial implementation.

(b) Funds available to implement this section may be matched with federal funds, special funds, grants, donations, and private funds. To increase the amount and effectiveness of marketing activities conducted, the Agency shall collaborate with private sector partners to maximize State marketing resources and to enable Vermont businesses to align their own brand identities with the Vermont brand, enhancing the reputations of both the business and the State.

(c) For any economic development marketing plan implemented pursuant to this section, the Secretary of Commerce and Community Development shall establish performance measures that support strategic priorities, including strengthening the State economy, before disbursing funds.

* * * Effective Dates * * *

Sec. N.1. EFFECTIVE DATES

(a) This section, Sec. B.1 (rural economic development infrastructure districts), and Secs. J–J.3 (tax increment financing districts) shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2017.

(Committee vote: 9-0-2)

(For text see Senate Journal March 30, 31, 2017)

Senate Proposal of Amendment

H. 513

An act relating to making miscellaneous changes to education law

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

* * * Approved Independent Schools Study Committee * * *

Sec. 1. APPROVED INDEPENDENT SCHOOLS STUDY COMMITTEE

(a) Legislative intent. It is the intent of the General Assembly to resolve the issues raised by the State Board of Education’s proposed amendments to the 2200 Series of the Rules and Practices of the State Board of Education, initiated by the State Board on November 13, 2015, after taking into account the report of the Approved Independent Schools Study Committee required under subsection (f) of this section.

(b) Creation. There is created the Approved Independent Schools Study Committee to consider and make recommendations on the criteria to be used by the State Board of Education for designation as an “approved” independent school.

(c) Membership. The Committee shall be composed of the following ten members:

(1) one current member of the House of Representatives who shall be appointed by the Speaker of the House;

(2) one current member of the Senate who shall be appointed by the Committee on Committees;

(3) the Chair of the State Board of Education or designee;

(4) the Secretary of Education or designee;

(5) the Executive Director of the Vermont Superintendent’s Association or designee;

(6) the Executive Director of the Vermont School Boards Association or designee;

(7) the Executive Director of the Vermont Independent Schools Association or designee;

(8) two representatives of approved independent schools, who shall be chosen by the Executive Director of the Vermont Independent Schools Association; and

(9) the Executive Director of the Vermont Council of Special Education Administrators or designee.

(d) Powers and duties. The Committee shall consider and make recommendations on the criteria to be used by the State Board of Education for designation as an “approved” independent school, including the following criteria:

(1) the school’s enrollment policy and any limitation on a student’s ability to enroll;

(2) how the school should be required to deliver special education services and which categories of these services; and

(3) the scope and nature of financial information and special education information that should be required to be reported by the school to the State Board or Agency of Education.

(e) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Education.

(f) Report. On or before December 1, 2017, the Committee shall submit a written report to the House and Senate Committees on Education and the State Board of Education with its findings and any recommendations, including recommendations for any amendments to legislation.

(g) Initiation of Rulemaking. Notwithstanding any provision to the contrary under 16 V.S.A. § 164, the State Board of Education’s proposed amendments to the 2200 Series of the Rules and Practices of the State Board of Education, initiated by the State Board on November 13, 2015, shall be null, void, and of no effect. On or before March 1, 2018, and prior to prefiling of rule amendments under 3 V.S.A. § 837, the State Board shall consider the Committee’s report required under subsection (f) of this section and submit to the House and Senate Committees on Education new draft amendments to the 2200 Series of its Rules and Practices.

(h) Meetings.

(1) The Secretary of Education shall call the first meeting of the Committee to occur on or before May 30, 2017.

(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 January 16, 2018.

(i) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than seven meetings.

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

* * * Educational and Training Programs for College Credit * * *

Sec. 2. APPROPRIATION TO THE VERMONT STATE COLLEGES
TO EXPAND EDUCATION AND TRAINING EVALUATION
SERVICES PROGRAM

The sum of \$20,000.00 is appropriated from the Next Generation Initiative Fund created pursuant to 16 V.S.A. § 2887 to the Vermont State Colleges for the purpose of providing funding for the Colleges' Education and Training Evaluation Services Program. The Vermont State Colleges shall use the appropriation to evaluate or reevaluate educational and training programs for college credit at no cost or at a reduced cost to the programs being evaluated. The Vermont State Colleges shall identify training programs in the skilled trades, including the plumbing and electrical trades, to receive these evaluation services. The Vermont State Colleges shall, on or before January 15, 2018, issue a report to the House and Senate Committees on Education describing how the funds appropriated pursuant to this section have been spent, how any remaining funds appropriated pursuant to this section will be spent, and the number and nature of the programs evaluated or reevaluated and the results of the evaluations.

* * * Student Enrollment; Small School Grant * * *

Sec. 3. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

(1) "Eligible school district" means a school district that operates at least one school; and

(A) has a two-year average combined enrollment of fewer than 100 students in all the schools operated by the district; or

(B) has an average grade size of 20 or fewer.

(2) “Enrollment” means the number of students who are enrolled in a school operated by the district on October 1. A student shall be counted as one whether the student is enrolled as a full-time or part-time student. Students enrolled in prekindergarten programs shall not be counted.

(3) “Two-year average enrollment” means the average enrollment of the two most recently completed school years.

(4) “Average grade size” means two-year average enrollment divided by the number of grades taught in the district on October 1. For purposes of this calculation, kindergarten and prekindergarten programs shall be counted together as one grade.

* * *

* * * Vermont Standards Board for Professional Educators * * *

Sec. 4. 16 V.S.A. § 1693 is amended to read:

§ 1693. STANDARDS BOARD FOR PROFESSIONAL EDUCATORS

(a) There is hereby established the Vermont Standards Board for Professional Educators comprising 13 members as follows: seven teachers, two administrators, one of whom shall be a school superintendent, one public member, one school board member, one representative of educator preparation programs from a public institution of higher education, and one representative of educator preparation programs from a private institution of higher education.

* * *

Sec. 5. TRANSITIONAL PROVISION

A superintendent shall be appointed to the Vermont Standards Board for Professional Educators upon the next expiration of the term of a member who is serving on the Board as an administrator.

Sec. 6. [Deleted.]

Sec. 7. [Deleted.]

Sec. 8. [Deleted.]

* * * Renewal of Principal’s Contracts * * *

Sec. 9. 16 V.S.A. § 243(c) is amended to read:

(c) Renewal and nonrenewal. A principal who has been continuously

employed for more than two years in the same position has the right either to have his or her contract renewed, or to receive written notice of nonrenewal ~~at least 90 days before~~ on or before February 1 of the year in which the existing contract expires. Nonrenewal may be based upon elimination of the position, performance deficiencies, or other reasons. The written notice shall recite the grounds for nonrenewal. If nonrenewal is based on performance deficiencies, the written notice shall be accompanied by an evaluation performed by the superintendent. At its discretion, the school board may allow a period of remediation of performance deficiencies prior to issuance of the written notice. After receiving such a notice, the principal may request in writing, and shall be granted, a meeting with the school board. Such request shall be delivered within 15 days of delivery of notice of nonrenewal, and the meeting shall be held within 15 days of delivery of the request for a meeting. At the meeting, the school board shall explain its position, and the principal shall be allowed to respond. The principal and any member of the board may present written information or oral information through statements of others, and the principal and the board may be represented by counsel. The meeting shall be in executive session unless both parties agree in writing that it be open to the public. After the meeting, the school board shall decide whether or not to offer the principal an opportunity to renew his or her contract. The school board shall issue its decision in writing within five days. The decision of the school board shall be final.

* * * Postsecondary Schools * * *

Sec. 10. 16 V.S.A § 176(d) is amended to read:

(d) Exemptions. The following are exempt from the requirements of this section except for the requirements of subdivision (c)(1)(C) of this section:

* * *

(4) Postsecondary schools that are accredited. The following postsecondary institutions are accredited, meet the criteria for exempt status, and are authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate: Bennington College, ~~Burlington College~~, Champlain College, College of St. Joseph, Goddard College, Green Mountain College, Landmark College, Marlboro College, Middlebury College, New England Culinary Institute, Norwich University, Saint Michael's College, SIT Graduate Institute, Southern Vermont College, Sterling College, Vermont College of Fine Arts, and Vermont Law School. This authorization is provided solely to the extent necessary to ensure institutional compliance with federal financial aid-related regulations, and it does not affect, rescind, or supersede any preexisting authorizations, charters, or other forms of recognition or authorization.

* * *

* * * Educational Opportunities * * *

Sec. 11. 16 V.S.A § 165(b) is amended to read:

(b) ~~Every two years~~ Annually, the Secretary shall determine whether students in each Vermont public school are provided educational opportunities substantially equal to those provided in other public schools. If the Secretary determines that a school is not meeting the education quality standards listed in subsection (a) of this section or that the school is making insufficient progress in improving student performance in relation to the standards for student performance set forth in subdivision 164(9) of this title, he or she shall describe in writing actions that a district must take in order to meet either or both sets of standards and shall provide technical assistance to the school. If the school fails to meet the standards or make sufficient progress ~~by the end of the next two year period~~ within two years of the determination, the Secretary shall recommend to the State Board one or more of the following actions:

* * *

* * * Local Education Agency * * *

Sec. 12. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE

The school board of a school district, in addition to other duties and authority specifically assigned by law:

* * *

~~(26) Shall carry out the duties of a local education agency, as that term is defined in 20 U.S.C. § 7801(26), for purposes of determining student performance and application of consequences for failure to meet standards and for provision of compensatory and remedial services pursuant to 20 U.S.C. §§ 6311-6318. [Repealed.]~~

* * *

* * * State-placed and Homeless Students * * *

Sec. 13. 16 V.S.A § 1075 is amended to read:

§ 1075. LEGAL RESIDENCE DEFINED; RESPONSIBILITY AND PAYMENT OF EDUCATION OF STUDENT

* * *

(c) State-placed students.

(1) A State-placed student in the legal custody of the Commissioner for

Children and Families, other than one placed in a 24-hour residential facility and except as otherwise provided in this subsection, shall be educated by the school district in which the student is living the student's school of origin, unless an alternative plan or facility for the education of the student is agreed upon by Secretary the student's education team determines that it is not in the student's best interest to attend the school of origin. The student's education team shall include, as applicable, the student, the student's parents and foster parents, the student's guardian ad litem and educational surrogate parent, representatives of both the school of origin and potential new school, and a representative of the Family Services Division of the Department for Children and Families. In the case of a dispute as to where a State-placed student is living, the Secretary shall conduct a hearing to determine which school district is responsible for educating the student. The Secretary's decision shall be final about whether it is in the student's best interest to attend the school of origin, the Commissioner for Children and Families shall make the final decision. As used in this section, "school of origin" means the school in which the child was enrolled at the time of placement into custody of the Commissioner for Children and Families, or in the case of a student already in the custody of the Commissioner for Children and Families, the school the student most recently attended.

(2) If a student is a State-placed student pursuant to subdivision 11(a)(28)(D)(i)(I) of this title, then the Department for Children and Families shall ~~assume responsibility~~ be responsible for the student's transportation to and from school, unless the receiving district chooses to provide transportation.

(3) A State-placed student not in the legal custody of the Commissioner for Children and Families, other than one placed in a 24-hour residential facility and except as otherwise provided in this subsection, shall be educated by the school district in which the student is living unless an alternative plan or facility for the education of the student is agreed upon by the Secretary. In the case of dispute as to where a State-placed student is living, the Secretary shall conduct a hearing to determine which school district is responsible for educating the student. The Secretary's decision shall be final.

(4) A student who is in temporary legal custody pursuant to 33 V.S.A. § 5308(b)(3) or (4) and is a State-placed student pursuant to subdivision 11(a)(28)(D)(i)(II) of this title, shall be enrolled, at the temporary legal custodian's discretion, in the district in which the student's parents reside, the district in which either parent resides if the parents live in different districts, the district in which the student's legal guardian resides, or the district in which the temporary legal custodian resides. If the student enrolls in the district in which the temporary legal custodian resides, the district shall

provide transportation in the same manner and to the same extent it is provided to other students in the district. In all other cases, the temporary legal custodian is responsible for the student's transportation to and from school, unless the receiving district chooses to provide transportation.

~~(4)~~(5) If a student who had been a State-placed student pursuant to subdivision 11(a)(28) of this title is returned to live in the district in which one or more of the student's parents or legal guardians reside, then, at the request of the student's parent or legal guardian, the Secretary may order the student to continue his or her enrollment for the remainder of the academic year in the district in which the student resided prior to returning to the parent's or guardian's district and the student will continue to be funded as a State-placed student. Unless the receiving district chooses to provide transportation:

* * *

(e) For the purposes of this title, the legal residence or residence of a child of homeless parents is ~~where the child temporarily resides~~ the child's school of origin, as defined in subdivision (c)(1) of this section, unless the parents and another school district agree that the child's attendance in school in that school district will be in the best interests of the child ~~in that continuity of education will be provided and transportation will not be unduly burdensome to the school district.~~ A "child of homeless parents" means a child whose parents:

* * *

* * * Early College * * *

Sec. 14. REPEAL

16 V.S.A § 4011(e) (early college) is repealed.

Sec. 15. 16 V.S.A § 946 is added to read:

§ 946. EARLY COLLEGE

(a) For each grade 12 Vermont student enrolled, the Secretary shall pay an amount equal to 87 percent of the base education amount to:

(1) the Vermont Academy of Science and Technology (VAST); and

(2) an early college program other than the VAST program that is developed and operated or overseen by the University of Vermont, by one of the Vermont State Colleges, or by an accredited private postsecondary school located in Vermont and that is approved for operation by the Secretary; provided, however, when making a payment under this subdivision (2), the Secretary shall not pay more than the tuition charged by the institution.

(b) The Secretary shall make the payment pursuant to subsection (a) of this

section directly to the postsecondary institution, which shall accept the amount as full payment of the student's tuition.

(c) A student on whose behalf the Secretary makes a payment pursuant to subsection (a) of this subsection:

(1) shall be enrolled as a full-time student in the institution receiving the payment for the academic year for which payment is made;

(2) shall not be enrolled concurrently in a secondary school operated by the student's district of residence or to which the district pays tuition on the student's behalf; and

(3) shall not be included in the average daily membership of any school district for the academic year for which payment is made; provided, however, that if more than five percent of the grade 12 students residing in a district enroll in an early college program, then the district may include the number of students in excess of five percent in its average daily membership; but further provided that a student in grade 12 enrolled in a college program shall be included in the percentage calculation only if, for the previous academic year, the student was enrolled in a school maintained by the district or was a student for whom the district paid tuition to a public or approved independent school.

(d) A postsecondary institution shall not accept a student into an early college program unless enrollment in an early college program was an element of the student's personalized learning plan.

Sec. 16. REPEAL

16 V.S.A. § 4011a (early college program; report; appropriations) is repealed.

Sec. 17. 16 V.S.A. § 947 is added to read:

§ 947. EARLY COLLEGE PROGRAM; REPORT; APPROPRIATION

(a) Notwithstanding 2 V.S.A. § 20(d), any postsecondary institution receiving funds pursuant to section 946 of this title shall report annually in January to the Senate and House Committees on Education regarding the level of participation in the institution's early college program, the success in achieving the stated goals of the program to enhance secondary students' educational experiences and prepare them for success in college and beyond, and the specific results for participating students relating to programmatic goals.

(b) In the budget submitted annually to the General Assembly pursuant to 32 V.S.A. chapter 5, the Governor shall include the recommended appropriation for all early college programs to be funded pursuant to section 946 of this title, including the VAST program, as a distinct amount.

* * * Advisory Council on Special Education * * *

Sec. 18. 16 V.S.A § 2945(c) is amended to read:

(c) The members of the Council who are employees of the State shall receive no additional compensation for their services, but actual and necessary expenses shall be allowed State employees, and shall be charged to their departments or institutions. The members of the Council who are not employees of the State shall receive a per diem compensation of ~~\$30.00~~ per day as provided under 32 V.S.A. § 1010 for each day of official business and reimbursement for actual and necessary expenses at the rate allowed State employees.

* * *

* * * Criminal Record Checks * * *

Sec. 19. 16 V.S.A. § 255(k) is added to read:

(k) The requirements of this section shall not apply to superintendents and headmasters with respect to persons operating or employed by a child care facility, as defined under 33 V.S.A. § 3511, that provides prekindergarten education pursuant to section 829 of this title and that is required to be licensed by the Department for Children and Families pursuant to 33 V.S.A. § 3502. Superintendents and headmasters are not prohibited from conducting a criminal record check as a condition of hiring an employee to work in a child care facility that provides prekindergarten education operated by the school.

* * * Agency Of Education Report; English Language Learners * * *

Sec. 20. AGENCY OF EDUCATION REPORT; ENGLISH LANGUAGE LEARNERS

As part of the management of federal funds for students for whom English is not the primary language, the Agency of Education shall convene at least one meeting of representatives from the supervisory unions and supervisory districts that receive these funds, including those responsible for the administration of these funds, which shall take place prior to the creation of budgets for the next school year. The meeting participants shall explore ways to reduce barriers to the use of funds available under the federal Elementary and Secondary Education Act and help the supervisory unions and supervisory districts develop strategies for best meeting the needs of students for whom English is not the primary language as permitted under federal and State law. In addition, the meeting participants shall discuss the weighting formulas for students from economically deprived backgrounds and students for whom English is not the primary language, and whether these formulas should be revised. The Agency of Education shall report the results of these discussions to the Senate and House Committees on Education on or before January 15,

2018.

* * * Prekindergarten Programs; STARS ratings * * *

Sec. 21. 16 V.S.A. § 829(c) is amended to read:

(c) Prequalification. Pursuant to rules jointly developed and overseen by the Secretaries of Education and of Human Services and adopted by the State Board pursuant to 3 V.S.A. chapter 25, the Agencies jointly may determine that a private or public provider of prekindergarten education is qualified for purposes of this section and include the provider in a publicly accessible database of prequalified providers. At a minimum, the rules shall define the process by which a provider applies for and maintains prequalification status, shall identify the minimum quality standards for prequalification, and shall include the following requirements:

(1) A program of prekindergarten education, whether provided by a school district or a private provider, shall have received:

(A) National Association for the Education of Young Children (NAEYC) accreditation; or

(B) at least four stars in the Department for Children and Families' STARS system ~~with at least two points in each of the five arenas~~; or

(C) three stars in the STARS system if the provider has developed a plan, approved by the Commissioner for Children and Families and the Secretary of Education, to achieve four or more stars in no more than two years ~~with at least two points in each of the five arenas~~, and the provider has met intermediate milestones.

* * *

* * * Act 46 Findings * * *

Sec. 22. ACT 46 FINDINGS

(a) 2015 Acts and Resolves No. 46 established a multi-year, phased process that provides multiple opportunities for school districts to unify existing governance units into more “sustainable governance structures” designed to meet the General Assembly’s identified educational and fiscal goals while recognizing and reflecting local priorities. It has been the General Assembly’s intent to revitalize Vermont’s small schools – to promote equity in their offerings and stability in their finances – through these changes in governance.

(b) As of Town Meeting Day 2017, voters in 96 Vermont towns have voted to merge 104 school districts into these slightly larger, more sustainable governance structures, resulting in the creation of 20 new unified union districts (serving prekindergarten–grade 12 students). As a result,

approximately 60 percent of Vermont's school-age children live or will soon live in districts that satisfy the goals of Act 46.

(c) These slightly larger, more flexible unified union districts have begun to realize distinct benefits, including the ability to offer kindergarten–grade 8 choice among elementary schools within the new district boundaries; greater flexibility in sharing students, staff, and resources among individual schools; the elimination of bureaucratic redundancies; and the flexibility to create magnet academies, focusing on a particular area of specialization by school.

(d) Significant areas of the State, however, have experienced difficulty satisfying the goals of Act 46. The range of complications is varied, including operating or tuitioning models that differ among adjoining districts, geographic isolation due to lengthy driving times or inhospitable travel routes between proposed merger partners, and greatly differing levels of debt per equalized pupil between districts involved in merger study committees. This act is designed to make useful changes to the merger time lines and allowable governance structures under Act 46 without weakening or eliminating the Act's fundamental phased merger and incentive structures and requirements.

* * * Side-by-Side Structures * * *

Sec. 23. 2012 Acts and Resolves No. 156, Sec. 15 is amended to read:

Sec. 15. TWO OR MORE MERGERS; REGIONAL EDUCATION DISTRICT INCENTIVES

(a) ~~Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) of No. 153 of the Acts of the 2009 Adj. Sess. (2010) that requires a single regional education district ("RED") to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible jointly for the incentives provided in Sec. 4 of No. 153, Sec. 4 if:~~

* * *

~~(3) one of the new districts provides education in all elementary and secondary grades by operating one or more schools and the other new district or districts pay tuition for students in one or more grades; each new district has a model of operating schools or paying tuition that is different from the model of the other, which may include:~~

~~(A) operating a school or schools for all resident students in prekindergarten through grade 12;~~

~~(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or~~

~~(C) operating no schools and paying tuition for all resident students~~

in prekindergarten through grade 12;

* * *

(b) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 24. THREE-BY-ONE SIDE-BY-SIDE STRUCTURE; REGIONAL
EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) that requires a single regional education district (RED) to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, a new district shall be eligible for the incentives provided in No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46 if:

(1) The new district is formed by the merger of at least three existing districts (Merged District) and, together with an existing district (Existing District), are members of the same supervisory union following the merger (Three-by-One Side-by-Side Structure).

(2) As of March 7, 2017 (Town Meeting Day), the Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education;

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District; or

(C) unable to reach agreement to consolidate with one or more other adjoining school districts because the school districts that adjoin the Existing District have greatly differing levels of indebtedness per equalized pupil, as defined in 16 V.S.A. § 4001(3), from that of the Existing District as determined by the State Board of Education.

(3) The Merged District and the Existing District each has a model of operating schools or paying tuition that is different from the model of the other. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) The Three-by-One Side-by-Side Structure meets all criteria for RED formation other than the size criterion of 2010 Acts and Resolves No. 153, Sec. 3(a)(1) (average daily membership of at least 1,250) and otherwise as provided in this section.

(5) The districts seeking approval of their proposed Three-by-One Side-by-Side Structure demonstrate in their report presented to the State Board that this structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6, and will meet the goals set forth in Sec. 2 of that Act.

(6) The districts proposing to merge into the Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and the Merged District becomes fully operational on or before July 1, 2019.

(b) The incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 shall be available to the Merged District and shall not be available to the Existing District.

(c) The Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10 to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's plan.

Sec. 25. TWO-BY-TWO-BY-ONE SIDE-BY-SIDE STRUCTURE;
REGIONAL EDUCATION DISTRICT INCENTIVES

(a) Notwithstanding 2010 Acts and Resolves No. 153, Sec. 3(a)(1) that requires a single regional education district (RED) to have an average daily membership of at least 1,250 or result from the merger of at least four districts, or both, two or more new districts shall be eligible for the incentives provided in No. 153, Sec. 4 as amended by 2012 Acts and Resolves No. 156 and 2015 Acts and Resolves No. 46 if:

(1) Each new district is formed by the merger of at least two existing districts (each a Merged District) and, together with an existing (Existing District), are members of the same supervisory union following the merger (Two-by-Two-by-One Side-by-Side Structure).

(2) As of March 7, 2017 (Town Meeting Day), the Existing District is either:

(A) geographically isolated, due to lengthy driving times or inhospitable travel routes between the Existing District's school or schools and the nearest school in which there is excess capacity as determined by the State Board of Education;

(B) structurally isolated, because all adjoining school districts have operating or tuitioning models that differ from the Existing District; or

(C) unable to reach agreement to consolidate with one or more other adjoining school districts because the school districts that adjoin the Existing District have greatly differing levels of indebtedness per equalized pupil, as defined in 16 V.S.A. § 4001(3), from that of the Existing District as determined by the State Board of Education.

(3) Each Merged District and the Existing District has a model of operating schools or paying tuition that is different from the model of each other. These models are:

(A) operating a school or schools for all resident students in prekindergarten through grade 12;

(B) operating a school or schools for all resident students in some grades and paying tuition for resident students in the other grades; or

(C) operating no schools and paying tuition for all resident students in prekindergarten through grade 12.

(4) The Two-by-Two-by-One Side-by-Side Structure meets all criteria for RED formation other than the size criterion of 2010 Acts and Resolves No. 153, Sec. 3(a)(1) (average daily membership of at least 1,250) and otherwise as provided in this section.

(5) The districts seeking approval of their proposed Two-by-Two-by-One Side-by-Side Structure demonstrate in their report presented to the State Board that this structure is better suited to them than a governance structure described in 2015 Acts and Resolves No. 46, Sec. 6, and will meet the goals set forth in Sec. 2 of that act.

(6) Each Merged District has the same effective date of merger.

(7) The districts proposing to merge into each Merged District receive final approval from their electorate for the merger proposal on or before November 30, 2017, and each Merged District becomes fully operational on or before July 1, 2019.

(b) The incentives provided in 2010 Acts and Resolves No. 153, Sec. 4 shall be available to each Merged District and shall not be available to the Existing District.

(c) The Existing District shall be exempt from the requirement under 2015 Acts and Resolves No. 46, Secs. 9 and 10 to self-evaluate and make a proposal to the Secretary of Education and State Board of Education and from the State Board's plan.

* * * Withdrawal from Union School District * * *

Sec. 26. TEMPORARY AUTHORITY TO WITHDRAW FROM UNION SCHOOL DISTRICT

(a) Notwithstanding any provision of 16 V.S.A. § 721a to the contrary, a school district may withdraw from a union high school district without approval by the remaining members of the union high school district upon the following conditions:

(1) The school district proposing to withdraw from the union high school district operates a school or schools for all resident students in prekindergarten through grade 6 and pays tuition for resident students in grade 7 through grade 12.

(2) At least one year has elapsed since the union high school district became a body politic and corporate as provided in 16 V.S.A. § 706g.

(3) A majority of the voters of the school district proposing to withdraw from the union high school district present and voting at a school district meeting duly warned for that purpose votes to withdraw from the union high school district. The clerk of the school district shall certify the vote to the Secretary of State, who shall record the certificate in his or her office and shall give notice of the vote to the Secretary of Education and to the other members of the union high school district.

(4) The State Board approves the withdrawal based on a recommendation from the Secretary of Education.

(5) The withdrawal process is completed on or before July 1, 2019.

(b) In making his or her recommendation, the Secretary of Education shall assess whether:

(1) students in the withdrawing school district would attend a school that complies with the rules adopted by the State Board pertaining to educational programs; and

(2) it is in the best interests of the State, the students, and the districts remaining in the union high school district for the union to continue to exist.

(c) The State Board shall:

(1) consider the recommendation of the Secretary and any other information it deems appropriate;

(2) hold a public meeting within 60 days of receiving the recommendation of the Secretary, and provide due notice of this meeting to the Secretary and all members of the union high school district;

(3) within 10 days of the meeting, notify the Secretary and all members of the union high school district of its decision;

(4) if it approves the withdrawal, declare the membership of the withdrawing school district in the union high school district terminated as of July 1 immediately following, or as soon after July 1 as the financial obligations of the withdrawing school district have been paid to, or an agreement has been made with, the union high school district in an amount to satisfy those obligations; and

(5) file the declaration with the Secretary of State, the clerk of the withdrawing school district, and the clerk of the union high school district concerned.

Sec. 27. REPEAL

Sec. 26 of this act is repealed on July 2, 2019.

* * * Time Extension for Qualifying Districts * * *

Sec. 28. 2015 Acts and Resolves No. 46, Sec. 9 is amended to read:

Sec. 9. SELF-EVALUATION, MEETINGS, AND PROPOSAL

(a) ~~On~~ Subject to subsection (b) of this section, on or before November 30, 2017, the board of each school district in the State that:

(1) has a governance structure different from the preferred structure identified in Sec. 5(b) of this act (Education District), or that does not expect to become or will not become an Education District on or before July 1, 2019; or

(2) does not qualify for an exemption under Sec. 10(c) of this act, shall perform each of the following actions:

~~(1)(A)~~ (A) Self-evaluation. The board shall evaluate its current ability to meet or exceed each of the goals set forth in Sec. 2 of this act.

~~(2)(B)~~ (B) Meetings.

~~(A)(i)~~ (i) The board shall meet with the boards of one or more other districts, including those representing districts that have similar patterns of school operation and tuition payment, to discuss ways to promote improvement throughout the region in connection with the goals set forth in Sec. 2 of this act.

~~(B)(ii)~~ (ii) The districts do not need to be contiguous and do not need to be within the same supervisory union.

~~(3)(C)~~ (C) Proposal. The board of the district, solely on behalf of its own district or jointly with the boards of other districts, shall submit a proposal to

the Secretary of Education and the State Board of Education in which the district:

(A)(i) proposes to retain its current governance structure, to work with other districts to form a different governance structure, or to enter into another model of joint activity;

(B)(ii) demonstrates, through reference to enrollment projections, student-to-staff ratios, the comprehensive data collected pursuant to 16 V.S.A. § 165, and otherwise, how the proposal in subdivision (A)(i) of this subdivision (3)(C) supports the district's or districts' ability to meet or exceed each of the goals set forth in Sec. 2 of this act; ~~and~~

(C)(iii) identifies detailed actions it proposes to take to continue to improve its performance in connection with each of the goals set forth in Sec. 2 of this act; and

(iv) describes its history of merger, consolidation, or other models of joint activity with other school districts before the enactment of this act, and its consideration of merger, consolidation, or other models of joint activity with other school districts on or after the enactment of this act.

(b) The date by which a qualifying district must take the actions required by subsection (a) of this section is extended from November 30, 2017 to January 31, 2018. A qualifying district is a district that:

(1) proposed a school district consolidation plan under 2010 Acts and Resolves No. 153, as amended, or 2012 Acts and Resolves No. 156, as amended, which was rejected by voters;

(2) is a member of a study committee formed under 16 V.S.A. § 706 that provides to the Secretary a declaration that another school district wants to join the district's study committee, signed by each member of the study committee and the district that proposes to join the study committee; or

(3) is a member of a supervisory union that, on or after July 1, 2010, combined with another supervisory union.

Sec. 29. TIME EXTENSION FOR VOTE OF ELECTORATE

Notwithstanding any provision of law to the contrary, the date by which a qualifying district must receive final approval from the electorate for its merger proposal is extended from July 1, 2017 to November 30, 2017. A qualifying district is a district that:

(1) proposed a school district consolidation plan under 2010 Acts and Resolves No. 153, as amended, or 2012 Acts and Resolves No. 156, as amended, which was rejected by voters;

(2) is a member of a study committee formed under 16 V.S.A. § 706 that provides to the Secretary a declaration that another school district wants to join the district's study committee, signed by each member of the study committee and the district that proposes to join the study committee; or

(3) is a member of a supervisory union that, on or after July 1, 2010, combined with another supervisory union.

* * * Grants and Fee Reimbursement * * *

Sec. 30. 2015 Acts and Resolves No. 46, Sec. 7 is amended to read:

Sec. 7. SCHOOL DISTRICTS CREATED AFTER DEADLINE FOR ACCELERATED ACTIVITY; TAX INCENTIVES; SMALL SCHOOL SUPPORT; JOINT CONTRACT SCHOOLS

* * *

(b) A newly formed school district that meets the criteria set forth in subsection (a) of this section shall receive the following:

* * *

(3) Transition Facilitation Grant.

(A) After voter approval of the plan of merger, notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the Secretary of Education shall pay the transitional board of the new district a Transition Facilitation Grant from the Education Fund equal to the lesser of:

(i) five percent of the base education amount established in 16 V.S.A. § 4001(13) multiplied by the greater of either the combined enrollment or the average daily membership of the merging districts on October 1 of the year in which the successful vote is taken; or

(ii) \$150,000.00.

(B) A Transition Facilitation Grant awarded under this subdivision (3) shall be reduced by the total amount of reimbursement paid for consulting services, analysis, and transition costs pursuant to 2012 Acts and Resolves No. 156, Secs. 2, 4, and 9.

* * *

(e) Notwithstanding the requirement in subdivision (a)(3) of this section that the newly formed school district be its own supervisory district, the newly formed school district shall qualify for the incentives under this section even if it is assigned to a supervisory union by the State Board of Education and that assignment by the State Board is not made at the request of the school district.

Sec. 31. 2012 Acts and Resolves No. 156, Sec. 9 is amended to read:

Sec. 9. REIMBURSEMENT OF FEES FOR CONSULTING SERVICES;
MERGER; SCHOOL DISTRICTS; SUNSET

(a) From the ~~education fund~~ Education Fund, the ~~commissioner of education~~ Secretary of Education shall reimburse up to \$20,000.00 of fees paid by a study committee established under 16 V.S.A. § 706 for legal and other consulting services necessary to analyze the advisability of creating a union school district or a unified union school district ~~and~~, to prepare the report required by 16 V.S.A. § 706b, and to conduct community outreach, including communications with voters. Community outreach materials shall be limited to those that are reasonably designed to inform and educate. Not more than 30 percent of the reimbursement amount provided by the Secretary under this section shall be used for the purpose of community outreach.

* * *

Sec. 32. 2015 Acts and Resolves No. 46, Sec. 10 is amended to read:

Sec. 10. TRANSITION TO SUSTAINABLE GOVERNANCE
STRUCTURES; PROPOSAL; FINAL PLAN

* * *

(d)(1) The Secretary of Education shall make a supplemental Transitional Facilitation Grant of \$10,000.00 to a school district that:

(A) has received or is eligible to receive tax incentives under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended (a qualifying school district); and

(B) either on its own initiative or at the request of the State Board, agrees by vote of its electorate to merge with another school district (a qualifying merger).

(2) A qualifying school district shall use the grant funding to defray the cost of integration. The Secretary shall pay the grant amount to a qualifying school district for each qualifying merger with a school district even if multiple qualifying mergers are effective on the same date. The Secretary shall pay the grant amount not later than 30 days after all required approvals are obtained.

(3) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the Secretary of Education shall pay the supplemental Transition Facilitation Grant from the Education Fund.

(4) The supplemental Transition Facilitation Grant shall be available for a qualifying merger initiated by a qualifying school district only if the merger is scheduled to take effect on or before November 30, 2018.

* * * Applications for Adjustments to Supervisory Union Boundaries * * *

Sec. 33. 16 V.S.A. § 261 is amended to read:

§ 261. ORGANIZATION AND ADJUSTMENT OF SUPERVISORY
UNIONS

(a) The State Board shall review on its own initiative or when requested as per subsection (b) of this section and may regroup the supervisory unions of the State or create new supervisory unions in such manner as to afford increased efficiency or greater convenience and economy and to facilitate prekindergarten through grade 12 curriculum planning and coordination as changed conditions may seem to require.

(b)(1) Any school district that has so voted at its annual school district meeting, if said meeting has been properly warned regarding such a vote, may request that the State Board adjust the existing boundaries of the supervisory union of which it is a member district.

(2) Any group of school districts that have so voted at their respective annual school district meeting, regardless of whether the districts are members of the same supervisory union, may request that the State Board adjust existing supervisory union boundaries and move one or more nonrequesting districts to a different supervisory union if such adjustment would assist the requesting districts to realign their governance structures into a unified union school district pursuant to chapter 11 of this title.

(3) The State Board shall ~~give timely consideration to requests~~ act on a request made pursuant to this subsection within 75 days of receipt of the request and may regroup the school districts of the area so as to ensure reasonable supervision of all public schools therein.

* * *

* * * Technical Corrections; Clarifications * * *

Sec. 34. 2012 Acts and Resolves No. 156, Sec. 16 is amended to read:

Sec. 16. UNION ELEMENTARY SCHOOL DISTRICTS; REGIONAL
EDUCATION DISTRICT INCENTIVES

* * *

(b) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 35. 2012 Acts and Resolves No. 156, Sec. 17 is amended to read:

Sec. 17. MODIFIED UNIFIED UNION SCHOOL DISTRICT

* * *

(d) This section is repealed on July 1, ~~2017~~ 2019.

Sec. 36. AVAILABILITY OF TAX AND OTHER INCENTIVES

The tax and other incentives under 2010 Acts and Resolves No. 153, as amended, and 2012 Acts and Resolves No. 156, as amended, shall be available only if the new governance structure formed under those acts becomes fully operational on or before July 1, 2019.

Sec. 37. 2015 Acts and Resolves No. 46, Sec. 23 is amended to read:

Sec. 23. DECLINING ENROLLMENT; TRANSITION

(a) If a district's equalized pupils in fiscal year 2016 do not reflect any adjustment pursuant to 16 V.S.A. § 4010(f), then Sec. 22 of this act shall apply to the district in fiscal year 2017 and after.

(b) If a district's equalized pupils in fiscal year 2016 reflect adjustment pursuant to 16 V.S.A. § 4010(f), then, notwithstanding the provisions of § 4010(f) as amended by this act:

(1) in fiscal year 2017, the district's equalized pupils shall in no case be less than 90 percent of the district's equalized pupils in the previous year; and

(2) in fiscal year 2018, the district's equalized pupils shall in no case be less than 80 percent of the district's equalized pupils in the previous year.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, if a district is actively engaged in merger discussions with one or more other districts regarding the formation of a regional education district (RED) or other form of unified union school district pursuant to 16 V.S.A. chapter 11, then Sec. 22 of this act shall apply to the district in fiscal year 2018 and after, and each of the dates in subsection (b) of this section shall be adjusted accordingly. A district shall be "actively engaged in merger discussions" pursuant to this subsection (c) if on or before July 1, 2016, it has formed a study committee pursuant to 16 V.S.A. chapter 11. Until such time as Sec. 22 of this act shall apply to the district, the district's equalized pupil count shall be calculated under 16 V.S.A. § 4010(f), as in effect on June 30, 2016.

* * * Student Rights; Freedom of Expression * * *

Sec. 38. 16 V.S.A. chapter 42 is added to read:

CHAPTER 42. STUDENT RIGHTS

§ 1623. FREEDOM OF EXPRESSION

(a) Findings.

(1) The General Assembly finds that freedom of expression and freedom of the press are fundamental principles in our democratic society granted to every citizen of the nation by the First Amendment to the

U.S. Constitution and to every resident of this State by Vt. Const. Ch. I, Art. 13.

(2) These freedoms provide all citizens, including students, with the right to engage in robust and uninhibited discussion of issues.

(3) The General Assembly intends to ensure free speech and free press protections for both public school students and students at public institutions of higher education in this State in order to encourage students to become educated, informed, and responsible members of society.

(b) Definitions. As used in this chapter:

(1) “Media adviser” means an individual employed, appointed, or designated by a school or its governing body to supervise or provide instruction relating to school-sponsored media.

(2) “School” means a public school operating in the State.

(3) “School-sponsored media” means any material that is prepared, written, published, or broadcast as part of a school-supported program or activity by a student journalist and is distributed or generally made available as part of a school-supported program or activity to an audience beyond the classroom in which the material is produced.

(4) “Student journalist” means a student enrolled at a school who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

(5) “Student supervisor” is a student who is responsible for editing school-sponsored media.

(c)(1) Subject to subsection (e) of this section, a student journalist may exercise freedom of speech and freedom of the press in school-sponsored media.

(2) Subdivision (1) of this subsection shall not be construed to be limited by the fact that the school-sponsored media are:

(A) supported financially by a school or its governing body, or by use of facilities owned by the school; or

(B) produced in conjunction with a class in which the student journalist is enrolled.

(d)(1) Subject to subsection (e) of this section, the student supervisors of school-sponsored media are responsible for determining the content of their respective media.

(2) Subject to subdivision (1) of this subsection, a media adviser may

teach professional standards of English and journalism to student journalists.

(e) This section shall not be construed to authorize or protect content of school-sponsored media that:

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

(3) may be defined as obscene, gratuitously profane, threatening, or intimidating;

(4) may be defined as harassment, hazing, or bullying under section 11 of this title;

(5) violates federal or State law; or

(6) creates the imminent danger of materially or substantially disrupting the ability of the school to perform its educational mission.

(f) A school is prohibited from subjecting school-sponsored media, other than that listed in subsection (e) of this section, to prior restraint. A school may restrain the distribution of content in student media described in subsection (e), provided that the school's administration shall have the burden of providing lawful justification without undue delay. Content shall not be suppressed solely because it involves political or controversial subject matter, or is critical of the school or its administration.

(g) A student journalist may not be disciplined for acting in accordance with this section.

(h) A media adviser may not be dismissed, suspended, disciplined, reassigned, or transferred for:

(1) taking reasonable and appropriate action to protect a student journalist for engaging in conduct protected by this section; or

(2) refusing to infringe on conduct that is protected by this section, by the first amendment to the U.S. Constitution, or by the Vermont Constitution.

(i) Each school or its governing body shall adopt a written policy consistent with the provisions of this section.

(j) No expression made by students in school-sponsored media shall be deemed to be an expression of school policy.

Sec. 39. 16 V.S.A. § 180 is added to read:

§ 180. STUDENT RIGHTS—FREEDOM OF EXPRESSION

(a) Findings.

(1) The General Assembly finds that freedom of expression and

freedom of the press are fundamental principles in our democratic society granted to every citizen of the nation by the First Amendment to the U.S. Constitution and to every resident of this State by Vt. Const. Ch. I, Art. 13.

(2) These freedoms provide all citizens, including students, with the right to engage in robust and uninhibited discussion of issues.

(3) The General Assembly intends to ensure free speech and free press protections for both public school students and students at public institutions of higher education in this State in order to encourage students to become educated, informed, and responsible members of society.

(b) Definitions. As used in this chapter:

(1) “Media adviser” means an individual employed, appointed, or designated by a school or its governing body to supervise or provide instruction relating to school-sponsored media.

(2) “School” means a public postsecondary school operating in the State.

(3) “School-sponsored media” means any material that is prepared, written, published, or broadcast as part of a school-supported program or activity by a student journalist and is distributed or generally made available as part of a school-supported program or activity to an audience beyond the classroom in which the material is produced.

(4) “Student journalist” means a student enrolled at a school who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

(5) “Student supervisor” is a student who is responsible for editing school-sponsored media.

(c)(1) Subject to subsection (e) of this section, a student journalist may exercise freedom of speech and freedom of the press in school-sponsored media.

(2) Subdivision (1) of this subsection shall not be construed to be limited by the fact that the school-sponsored media are:

(A) supported financially by a school or its governing body, or by use of facilities owned by the school; or

(B) produced in conjunction with a class in which the student journalist is enrolled.

(d)(1) Subject to subsection (e) of this section, the student supervisors of school-sponsored media are responsible for determining the content of their

respective media.

(2) Subject to subdivision (1) of this subsection, a media adviser may teach professional standards of English and journalism to student journalists.

(e) This section shall not be construed to authorize or protect content of school-sponsored media that:

(1) is libelous or slanderous;

(2) constitutes an unwarranted invasion of privacy;

(3) may be defined as obscene, gratuitously profane, threatening, or intimidating;

(4) may be defined as harassment, hazing, or bullying under section 11 of this title;

(5) violates federal or State law; or

(6) creates the imminent danger of materially or substantially disrupting the ability of the school to perform its educational mission.

(f) Absent a showing that a particular publication will cause direct, immediate, and irreparable harm that would warrant the issuance of a prior restraint order against the private media, school officials are not authorized to censor or subject to prior restraint the content of school-sponsored media. Content shall not be suppressed solely because it involves political or controversial subject matter, or is critical of the school or its administration.

(g) A student journalist may not be disciplined for acting in accordance with this section.

(h) A media adviser may not be dismissed, suspended, disciplined, reassigned, or transferred for:

(1) taking reasonable and appropriate action to protect a student journalist for engaging in conduct protected by this section; or

(2) refusing to infringe on conduct that is protected by this section, by the first amendment to the U.S. Constitution, or by the Vermont Constitution.

(i) Each school or its governing body shall adopt a written policy consistent with the provisions of this section.

(j) No expression made by students in school-sponsored media shall be deemed to be an expression of school policy.

* * * Effective Dates * * *

Sec. 40. EFFECTIVE DATES

(a) This section and Secs. 1–5, 9–12, and 14–39 shall take effect on

passage.

(b) Sec. 13 (State-placed students) shall take effect beginning with the 2017–2018 school year.

(For text see House Journal March 29, 2017)