

Senate Calendar

THURSDAY, APRIL 27, 2017

SENATE CONVENES AT: 10:00 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

CONSIDERATION POSTPONED

Second Reading

Favorable with Proposal of Amendment

H. 515 An act relating to Executive Branch and Judiciary fees..... 1723

UNFINISHED BUSINESS OF APRIL 20, 2017

House Proposal of Amendment

S. 56 An act relating to life insurance policies and the Vermont Uniform Securities Act..... 1723
Amendment - Sen. Sirotkin 1731

UNFINISHED BUSINESS OF APRIL 26, 2017

Third Reading

H. 503 An act relating to bail..... 1733
Amendment - Sen. Sears 1733

NEW BUSINESS

Third Reading

H. 516 An act relating to miscellaneous tax changes..... 1734
Amendment - Sens. Sirotkin, et al 1734
H. 518 An act relating to making appropriations for the support of government..... 1739
H. 519 An act relating to capital construction and State bonding..... 1740

Second Reading

Favorable with Proposals of Amendment

- H. 506** An act relating to professions and occupations regulated by the Office of Professional Regulation
Government Operations Report - Sen. Ayer 1740
- H. 509** An act relating to calculating statewide education tax rates
Finance Report - Sen. Cummings 1743

House Proposals of Amendment

- S. 20** An act relating to permanent licenses for persons 66 years of age or older..... 1744
- S. 72** An act relating to requiring telemarketers to provide accurate caller identification information..... 1745
- S. 127** An act relating to miscellaneous changes to laws related to vehicles and vessels..... 1750
- J.R.S. 25** Joint resolution authorizing the Commissioner of Forests, Parks and Recreation to amend conservation easements related to the former Hancock Lands and adjacent Averill Inholdings in Essex County and to sell the Bertha Tract in Mendon and the Burch Tract in Killington to the Trust for Public Land..... 1769

Report of Committee of Conference

- H. 42** An act relating to appointing municipal clerks and treasurers and to municipal audit penalties..... 1773

Senate Resolution For Action

- S.R. 9** Senate resolution relating to the appointment of Robin Lunge to the Green Mountain Care Board..... 1774

NOTICE CALENDAR

Second Reading

Favorable

- H. 327** An act relating to the charter of the Northeast Kingdom Solid Waste Management District
Government Operations Report - Sen. Collamore 1774
- H. 356** An act relating to approval of amendments to the charter of the Town of Berlin
Government Operations Report - Sen. Collamore 1774
- H. 520** An act relating to approval of amendments to the charter of the Town of Stowe
Government Operations Report - Sen. Collamore 1775

Favorable with Proposal of Amendment

H. 512 An act relating to the procedure for conducting recounts
Government Operations Report - Sen. White 1775

House Proposals of Amendment

S. 10 An act relating to liability for the contamination of potable water
supplies..... 1833

S. 23 An act relating to juvenile jurisdiction..... 1838

S. 52 An act relating to the Public Service Board and its proceedings..... 1838

S. 130 An act relating to miscellaneous changes to education laws..... 1858

H. 145 An act relating to establishing the Mental Health Crisis
Response Commission..... 1863

Report of Committee of Conference

H. 494 An act relating to the Transportation Program and miscellaneous
changes to transportation-related law..... 1863

CONCURRENT RESOLUTIONS FOR NOTICE

H.C.R. 140-157 (For text of Resolutions, see Addendum to House
Calendar for April 27, 2017)..... 1864

ORDERS OF THE DAY

**ACTION CALENDAR
CONSIDERATION POSTPONED**

**Second Reading
Favorable with Proposal of Amendment**

H. 515.

An act relating to Executive Branch and Judiciary fees.

PENDING QUESTION: Shall the Senate propose to the House to amend the bill as proposed by the Committee on Finance, as amended?

UNFINISHED BUSINESS OF THURSDAY, APRIL 20, 2017

House Proposal of Amendment

S. 56

An act relating to life insurance policies and the Vermont Uniform Securities Act.

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

* * * Secondary Addressee for Life Insurance * * *

Sec. 1. 8 V.S.A. § 3762(d) is added to read:

(d) No individual policy of life insurance covering an individual 64 years of age or older that has been in force for at least one year shall be canceled for nonpayment of premium unless, after expiration of the grace period and not less than 21 days before the effective date of any such cancellation, the insurer has mailed a notice of impending cancellation in coverage to the policyholder and to a specified secondary addressee if such addressee has been designated

by name and address in writing by the policyholder. An insurer shall notify the applicant of the right to designate a secondary addressee at the time of application for the policy on a form provided by the insurer, and annually thereafter, and the policyholder shall have the right to designate a secondary addressee, in writing, by name and address, at any time the policy is in force, by submitting such written notice to the insurer. If a life insurance policy provides a grace period longer than 51 days for nonpayment of premium, the notice of cancellation in coverage required by this subsection shall be mailed to the policyholder and to the secondary addressee not less than 21 days prior to the expiration of the grace period provided in such policies.

* * * Penalty Enhancements for Violations Involving a
Vulnerable Adult * * *

Sec. 2. 8 V.S.A. § 24 is amended to read:

§ 24. SENIOR INVESTOR PROTECTION

* * *

(e) The Commissioner, in addition to other powers conferred on the Commissioner by law, may increase the amount of an administrative penalty by not more than \$5,000.00 per violation for violations involving a person who is a vulnerable adult as defined in 33 V.S.A. § 6902(14).

* * * Securities Act Penalties, Generally; Vulnerable Adults * * *

Sec. 3. 9 V.S.A. § 5412(c) is amended to read:

(c) If the Commissioner finds that the order is in the public interest and subdivisions (d)(1) through (6), (8), (9), (10), (12), or (13) of this section authorize the action, an order under this chapter may censure, impose a bar on, or impose a civil penalty on a registrant in an amount not more than \$15,000.00 for each violation ~~and not more than \$1,000,000.00 for more than one violation~~, and recover the costs of the investigation from the registrant, and, if the registrant is a broker-dealer or investment adviser, a partner, officer, director, or person having a similar status or performing similar functions, or a person directly or indirectly in control of the broker-dealer or investment adviser. The limitations on civil penalties contained in this subsection shall not apply to settlement agreements.

Sec. 4. 9 V.S.A. § 5603(b)(2)(C) is amended to read:

(C) imposing a civil penalty up to \$15,000.00 for each violation ~~and not more than \$1,000,000.00 for more than one violation~~; an order of rescission, restitution, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this chapter or the predecessor act or a rule adopted or an order issued under this chapter or

the predecessor act. The court may increase a civil penalty amount by not more than \$5,000.00 per violation for violations involving a person who is a vulnerable adult as defined in 33 V.S.A. § 6902(14). The limitations on civil penalties contained in this subdivision shall not apply to settlement agreements; and

Sec. 5. 9 V.S.A. § 5604(d) is amended to read:

(d) In a final order under subsection (b) or (c) of this section, the Commissioner may impose a civil penalty of not more than \$15,000.00 for each violation ~~and not more than \$1,000,000.00 for more than one violation.~~ The Commissioner may also require a person to make restitution or provide disgorgement of any sums shown to have been obtained in violation of this chapter, plus interest at the legal rate. The limitations on civil penalties contained in this subsection shall not apply to settlement agreements.

* * * Securities Act Housekeeping * * *

Sec. 6. 9 V.S.A. § 5302 is amended to read:

§ 5302. NOTICE FILING

* * *

(c) With respect to a security that is a federal covered security under 15 U.S.C. § ~~77r(b)(4)(E)~~ § 77r(b)(4)(F), a rule under this chapter may require a notice filing by or on behalf of an issuer to include a copy of Form D, including the Appendix, as promulgated by the Securities and Exchange Commission, and a consent to service of process complying with section 5611 of this chapter signed by the issuer not later than 15 days after the first sale of the federal covered security in this State and the payment of a fee as set forth in subsection (e) of this section. The notice filing shall be effective for one year from the date the notice filing is accepted as complete by the Office of the Commissioner. On or before expiration, the issuer may annually renew a notice filing by filing a copy of those records filed by the issuer with the Securities and Exchange Commission that are required by rule or order under this chapter to be filed and by paying an annual renewal fee as set forth in subsection (e) of this section.

(d) Subject to the provisions of 15 U.S.C. § 77r(c)(2) and any rules adopted thereunder, with respect to any security that is a federal covered security under 15 U.S.C. § 77r(b)(3) or ~~(4)(A)-(C)~~ (4)(A)-(E) and (G) and that is not otherwise exempt under sections 5201 through 5203 of this title, a rule adopted or order issued under this chapter may require any or all of the following with respect to such federal covered securities, at such time as the Commissioner may deem appropriate:

* * *

* * * Philanthropy Protection Act; Exemption Repeal * * *

Sec. 7. REPEAL

9 V.S.A. § 5615 (exempting Vermont from the Philanthropy Protection Act of 1995) is repealed.

* * * Cooperative Insurance; Bylaws * * *

Sec. 8. 8 V.S.A. § 3925 is amended to read:

§ 3925. BYLAWS; COMPULSORY PROVISIONS

The bylaws of a cooperative insurance corporation to which a certificate of authority is issued shall include substantially the following provisions:

(1) The corporate powers of such corporation shall be exercised by a board of directors, who shall be not less than five in number. Such directors shall be divided into classes and a portion only elected each year. They shall be elected for a term of not more than four years each and shall choose ~~from their number~~ a president, a secretary, and such other officers as may be deemed necessary. After the first year, the directors shall be chosen at an annual meeting to be held on the second Tuesday of January, unless some other day is designated in such bylaws, at which meeting each person insured shall have one vote and may be entitled to vote by proxy under such rules and regulations as may be prescribed by the bylaws.

(2) Such corporation shall keep proper books, including a policy register, in which the secretary shall enter the complete record of all its transactions and those of the board of directors and executive committee. Such books shall at all times show fully and truly the condition, affairs, and business of such corporation and shall be open for inspection by every person insured, each day from nine o'clock in the forenoon to four o'clock in the afternoon, Saturdays, Sundays, and legal holidays excepted.

(3) If authorized as an assessment cooperative insurance corporation as outlined in subsection 3920(a) of this title, such corporation may assess for the purposes specified in section 3927 of this title, and the bylaws shall specify the manner of giving notice of such assessments, which may be either personal or by mail, and, if by mail, shall be deemed complete if such notice is deposited, postage prepaid, in the post office at the place where the principal office of the corporation is located, directed to the person insured at his or her last known place of residence or business. A person insured who neglects or refuses to pay his or her assessments, for that reason or for any other reason satisfactory to the board of directors or its executive committee, may be excluded from such corporation and, when thus excluded, the secretary shall cancel or withdraw his or her policy or policies, subject to the cancellation provisions in sections 3879 through 3882 and chapter 113, subchapter 2 of this title,

provided that such person shall remain liable for his or her pro rata share of losses and expenses incurred on or before the date of his or her exclusion and for the penalty herein provided, in case an action is brought against him or her. If a member of such corporation is so excluded and his or her policy so canceled, the secretary shall forthwith enter such cancellation and the date thereof on the records kept in the office of the corporation and serve notice of such cancellation on the person so excluded, as provided herein for the service of notice of assessment. However, in such event, the person so excluded or whose policy is so canceled shall be entitled to the repayment of an equitable portion of the unearned paid premium on such policy. The officers of such corporation shall proceed to collect all assessments within 30 days after the expiration of the notice to pay the same. Neglect or refusal on their part so to proceed or to perform any of the duties imposed on them by law shall render them individually liable for the amount lost to any person, due to such neglect or refusal, and an action may be maintained by such person against such officers to collect such amount. An action may be brought by the corporation against a person insured therein to recover all assessments which he or she may neglect or refuse to pay, and there may be recovered from him or her in such action both the amount so assessed, with lawful interest thereon, and, as a penalty for such neglect or refusal, 50 percent of such assessment in addition thereto.

(4) Any person insured by an assessment cooperative insurance corporation may withdraw therefrom at any time by giving written notice to the corporation, stating the date of withdrawal, paying his or her share of all claims then existing against such corporation, and surrendering his or her policy or policies.

(5) Any person insured by a nonassessment cooperative insurance corporation may withdraw from it at any time by giving written notice to the corporation stating the date of withdrawal and surrendering his or her policy or policies.

(6) ~~Persons residing or owning property within the state of Vermont~~ any state where the corporation is authorized to do business may be insured upon the same terms and conditions as original members and such other terms as may be prescribed in the bylaws of the corporation.

~~(7) Nonresidents owning property within the state of Vermont may be insured therein and shall have all the rights and privileges of the corporation and be accountable as are other persons insured therein, but shall not be eligible to hold office in the corporation;~~

(8) The bylaws of such corporation may be amended at any time.

* * * Group Life Insurance; Employee Pay All * * *

Sec. 9. [DELETED.]

Sec. 10. [DELETED.]

Sec. 11. [DELETED.]

Sec. 12. [DELETED.]

Sec. 13. [DELETED.]

Sec. 14. [DELETED.]

Sec. 15. [DELETED.]

* * * Assistant Medical Examiners; Liability Protections * * *

Sec. 16. 18 V.S.A. § 511 is added to read:

§ 511. ACTIONS AGAINST MEDICAL EXAMINERS

Actions taken by any person given authority under this chapter, including an assistant medical examiner, shall be considered to be actions taken by a State employee for the purposes of 3 V.S.A. chapter 29 and 12 V.S.A. chapter 189 if such actions occurred within the scope of such person's duties.

* * * Portable Electronics Insurance; Notice Requirements * * *

Sec. 17. 8 V.S.A. § 4260 is amended to read:

§ 4260. NOTICE REQUIREMENTS

(a) Whenever notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to the policy or is otherwise required by law, it shall be in writing. Notwithstanding any other provision of law, notices and correspondence may be sent either by mail or by electronic means as set forth in this section. If the notice or correspondence is mailed, it shall be sent to the portable electronics vendor at the vendor's mailing address specified for such purpose and to its affected customers' last known mailing address on file with the insurer. The insurer or vendor of portable electronics shall maintain proof of mailing in a form authorized or accepted by the U.S. Postal Service or other commercial mail delivery service. If the notice or correspondence is sent by electronic means, it shall be sent to the portable electronics vendor at the vendor's electronic mail address specified for such purpose and to its affected customers' last known electronic mail address as provided by each customer to the insurer or vendor of portable electronics. ~~A customer is deemed to consent to receive notice and correspondence by electronic means if the insurer or vendor first discloses to the customer that by providing an electronic mail address the customer consents to receive electronic notice and correspondence at the address, and the customer provides an electronic mail address~~ customer's provision of an electronic mail address

to the insurer or vendor of portable electronics is deemed consent to receive notices and correspondence by electronic means at such address if notice of that consent is provided to the customer within 30 calendar days. The insurer or vendor of portable electronics shall maintain proof that the notice or correspondence was sent.

* * *

* * * Workers' Compensation; High-Risk Occupations and Industries * * *

Sec. 18. WORKERS' COMPENSATION; INDUSTRIES AND
OCCUPATIONS WITH HIGH RISK, HIGH PREMIUMS, AND
FEW POLICY HOLDERS; 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 policy holders 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 difference 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.

* * * Workers' Compensation; Short-term and Seasonal Policies; Studies * * *

Sec. 19. [DELETED.]

Sec. 20. SHORT-TERM WORKERS' COMPENSATION POLICIES;
STUDY; REPORT

The Commissioner of Financial Regulation, in consultation with the Commissioner of Labor, shall examine potential measures to encourage the creation of affordable seasonal and short-term workers' compensation policies and measures to reduce the cost of workers' compensation insurance coverage for small employers in seasonal occupations. On or before January 15, 2018, the Commissioner shall report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance regarding his or her finding and any recommendations for legislative action.

Sec. 21. REGIONAL ASSIGNED RISK POOL; STUDY; REPORT

The Commissioner of Financial Regulation shall examine potential mechanisms for joining with neighboring states to create a regional assigned risk pool for workers' compensation insurance and whether the creation of a regional assigned risk pool could reduce the cost of administering Vermont's assigned risk pool. On or before January 15, 2018, the Commissioner shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance with his or her findings and any recommendations for legislative action related to the implementation of a regional assigned risk pool for workers' compensation insurance.

Sec. 22. ADMINISTRATION OF ASSIGNED RISK POOL; STUDY;
REPORT

The Commissioner of Financial Regulation shall examine whether any premium savings or reductions in costs could be realized if the assigned risk pool for workers' compensation was administered directly by the Department of Financial Regulation rather than through a third-party. On or before January 15, 2018, the Commissioner shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Finance with his or her findings and any recommendations for legislative action.

* * * Unemployment Compensation; Referee Final Decisions * * *

Sec. 23. [DELETED.]

Sec. 24. [DELETED.]

* * * Effective Date; Application * * *

Sec. 25. EFFECTIVE DATE; APPLICATION

(a) This act shall take effect on July 1, 2017.

(b) Sec. 17 shall apply to portable electronics insurance policies issued or renewed on or after July 1, 2017.

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

An act relating to insurance and securities.

Proposal of amendment to House proposal of amendment to H. S. 56 to be offered by Senator Sirotkin

Senator Sirotkin moves that the Senate concur in the House proposal of amendment with a proposal of amendment as follows:

By striking out Sec. 23 and Sec. 24 and the accompanying reader assistance (unemployment compensation) in their entirety and inserting in lieu thereof a new Sec. 23 and a new Sec. 24 to read as follows:

Sec. 23. 21 V.S.A. § 601 is amended to read:

§ 601. DEFINITIONS

Unless the context otherwise requires, words and phrases used in this chapter shall be construed as follows:

* * *

(11) “Personal injury by accident arising out of and in the course of employment” includes an injury caused by the willful act of a third person directed against an employee because of that employment.

* * *

(I)(i) In the case of police officers, rescue or ambulance workers, or firefighters, post-traumatic stress disorder that is diagnosed by a mental health professional shall be presumed to have been incurred during service in the line of duty and shall be compensable, unless it is shown by a preponderance of the evidence that the post-traumatic stress disorder was caused by nonservice-connected risk factors or nonservice-connected exposure.

(ii) A police officer, rescue or ambulance worker, or firefighter who is diagnosed with post-traumatic stress disorder within three years of the last active date of employment as a police officer, rescue or ambulance worker, or firefighter shall be eligible for benefits under this subdivision (11).

(iii) As used in this subdivision (11)(I):

(I) “Firefighter” means a firefighter as defined in 20 V.S.A. § 3151(3) and (4).

(II) “Mental health professional” means a person with professional training, experience, and demonstrated competence in the treatment and diagnosis of mental conditions, who is certified or licensed to

provide mental health care services and for whom diagnoses of mental conditions are within his or her scope of practice, including a physician, nurse with recognized psychiatric specialties, psychologist, clinical social worker, mental health counselor, or alcohol or drug abuse counselor.

(III) “Police officer” means a law enforcement officer who has been certified by the Vermont Criminal Justice Training Council pursuant to 20 V.S.A. chapter 151.

(IV) “Rescue or ambulance worker” means ambulance service, emergency medical personnel, first responder service, and volunteer personnel as defined in 24 V.S.A. § 2651.

(J)(i) A mental condition resulting from a work-related event or work-related stress shall be considered a personal injury by accident arising out of and in the course of employment and be compensable if it is demonstrated by the preponderance of the evidence that:

(I) the work-related event or work-related stress was extraordinary and unusual in comparison to pressures and tensions experienced by the average employee across all occupations; and

(II) the work-related event or work-related stress, and not some other event or source of stress, was the predominant cause of the mental condition.

(ii) A mental condition shall not be considered a personal injury by accident arising out of and in the course of employment if it results from any disciplinary action, work evaluation, job transfer, layoff, demotion, termination, or similar action taken in good faith by the employer.

* * *

Sec. 24. EMERGENCY PERSONNEL POST-TRAUMATIC STRESS DISORDER; STUDY OF EXPERIENCE AND COSTS; REPORT

(a) The Commissioner of Labor, in consultation with the Secretary of Administration, the Commissioner of Financial Regulation, the Vermont League of Cities and Towns, and the National Council on Compensation Insurance, shall examine claims for workers’ compensation made pursuant to 21 V.S.A. § 601(11)(I) and (J) between July 1, 2017 and January 1, 2020, including:

(1) the number of claims made;

(2) the cost of the workers compensation benefits provided for those claims; and

(3) any changes in administrative and premium costs associated with

those claims.

(b) On or before January 15 of each year from 2018 through 2020, the Commissioner shall report to the House Committees on Appropriations, on Commerce and Economic Development, and on Health Care, and the Senate Committees on Appropriations, on Finance, and on Health and Welfare regarding its findings and any recommendations for legislative changes.

UNFINISHED BUSINESS OF WEDNESDAY, APRIL 26, 2017

Third Reading

H. 503.

An act relating to bail.

**Proposal of amendment to H. 503 to be offered by Senator Sears before
Third Reading**

Senator Sears moves that the Senate propose to the House to amend the bill as follows:

After Sec. 10 by inserting a reader assistance to read

* * * Humane and Proper Treatment of Animals * * *

And by adding a Sec. 10a as follows:

Sec. 10a. 13 V.S.A. chapter 8 is amended to read:

CHAPTER 8. HUMANE AND PROPER TREATMENT OF ANIMALS

Subchapter 1. Cruelty to Animals

* * *

§ 352a. AGGRAVATED CRUELTY TO ANIMALS

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

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

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

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

§ 353. DEGREE OF OFFENSE; SENTENCING UPON CONVICTION

(a) Penalties.

(1) Except as provided in subdivision (3) or (4) of this subsection, cruelty to animals under section 352 of this title shall be punishable by a

sentence of imprisonment of not more than one year, or a fine of not more than \$2,000.00, or both. Second and subsequent convictions shall be punishable by a sentence of imprisonment of not more than two years or a fine of not more than \$5,000.00, or both.

(2) Aggravated cruelty under section 352a of this title shall be punishable by a sentence of imprisonment of not more than ~~three~~ five years or a fine of not more than \$5,000.00, or both. Second and subsequent offenses shall be punishable by a sentence of imprisonment of not more than ~~five~~ ten years or a fine of not more than \$7,500.00, or both.

* * *

NEW BUSINESS

Third Reading

H. 516.

An act relating to miscellaneous tax changes.

Proposal of amendment to H. 516 to be offered by Senators Sirotkin, Baruth, Cummings, Ingram, Lyons, MacDonald, Pearson and Pollina before Third Reading

Senators Sirotkin, Baruth, Cummings, Ingram, Lyons, MacDonald, Pearson and Pollina move to amend the Senate proposal of amendment as follows:

First: Following Sec. 52, by redesignating Sec. 53 (effective dates) to be Sec. 62 and inserting reader assistance and Secs. 53–62 to read:

* * * Vermont Housing and Conservation Board;
Housing Bond Proceeds for Affordable Housing * * *

Sec. 53. FINDINGS AND PURPOSE; AFFORDABLE HOUSING BOND

(a) Findings.

(1) The General Assembly finds that investments are needed to help house the most vulnerable as well as creating more homes for workers.

(2) The shortage of affordable and available homes has been highlighted recently by:

(A) the Vermont Futures Project of the Vermont Chamber of Commerce, which set a growth target of 5,000 new and improved housing units annually;

(B) a national consultant's recommendations for a Roadmap to End Homelessness, which calls for, over the next five years, 368 new units for permanent supportive housing and 1,251 new homes affordable to families with income that is not more than 30 percent of the median; and

(C) the 2015 statewide housing needs assessment by Bowen National Research, which found the largest gaps in housing affordable to households with income below 30 percent of median and households with income between 85 percent and 120 percent of median and found a lack of housing availability across the income spectrum.

(b) Purpose. The purpose of Secs. 54–61 of this act is to promote the development and improvement of housing for Vermonters.

Sec. 54. 10 V.S.A. § 314 is added to read:

§ 314. AFFORDABLE HOUSING BOND; INVESTMENT

The Vermont Housing and Conservation Board shall use the proceeds of bonds, notes, and other obligations issued by the Vermont Housing Finance Agency pursuant to subdivision 621(22) of this title and transferred to the Vermont Housing and Conservation Trust Fund to fund the creation and improvement of owner-occupied and rental housing for Vermonters with very low to middle income, in areas targeted for growth and reinvestment, as follows:

(1) not less than 25 percent of the housing shall be targeted to Vermonters with very low income, meaning households with income below 50 percent of area median income;

(2) not less than 25 percent of the housing shall be targeted to Vermonters with moderate income, meaning households with income between 80 and 120 percent of area median income; and

(3) the remaining housing shall be targeted to Vermonters with income that is less than or equal to 120 percent of area median income, consistent with the provisions of this chapter.

Sec. 55. 10 V.S.A. § 323 is amended to read:

§ 323. ANNUAL REPORT

Prior to January 31 of each year, the ~~board~~ Board shall submit a report concerning its activities to the ~~governor~~ Governor and ~~legislative committees on agriculture, natural resources and energy, appropriations, ways and means, finance, and institutions~~ to the House Committees on Agriculture and Forestry, on Appropriations, on Corrections and Institutions, on Natural Resources, Fish and Wildlife, and on Ways and Means and the Senate Committees on Agriculture, on Appropriations, on Finance, on Institutions, and on Natural Resources and Energy. The report shall include, ~~but not be limited to,~~ the following:

(1) a list and description of activities funded by the ~~board~~ Board during the preceding year, including commitments made to fund projects through housing bond proceeds pursuant to section 314 of this title, and project descriptions, levels of affordability, and geographic location;

* * *

* * * Allocation of Property Transfer Tax Revenues * * *

Sec. 56. 32 V.S.A. § 9610 is amended to read:

§ 9610. REMITTANCE OF RETURN AND TAX; INSPECTION OF RETURNS

(a) Not later than 30 days after the receipt of any property transfer return, a town clerk shall file the return in the office of the town clerk and electronically forward a copy of the acknowledged return to the Commissioner; provided, however, that with respect to a return filed in paper format with the town, the Commissioner shall have the discretion to allow the town to forward a paper copy of that return to the ~~department~~ Department.

(b) The copies of property transfer returns in the custody of the town clerk may be inspected by any member of the public.

(c) Prior to distributions of property transfer tax revenues under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), and ~~32 V.S.A. § subdivision~~ subdivision 435(b)(10) of this title, two percent of the revenues received from the property transfer tax shall be deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs.

(d)(1) Prior to any distribution of property transfer tax revenue under 10 V.S.A. § 312, 24 V.S.A. § 4306(a), subdivision 435(b)(10) of this title, and subsection (c) of this section, \$2,500,000.00 of the revenue received from the property transfer tax shall be transferred to the Vermont Housing Finance Agency to pay the principal of and interest due on the bonds, notes, and other obligations authorized to be issued by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(2) As long as the bonds, notes, and other obligations incurred pursuant to subdivision (1) of this subsection remain outstanding, the rate of tax imposed pursuant to section 9602 of this title shall not be reduced below a rate estimated, at the time of any reduction, to generate annual revenues of at least \$12,000,000.00.

* * * Vermont Housing Finance Agency; Authority to Issue Bonds for Affordable Housing * * *

Sec. 57. 10 V.S.A. § 621 is amended to read:

§ 621. GENERAL POWERS AND DUTIES

The Agency shall have all of the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including without limitation those general powers provided a business corporation by 11A V.S.A. § 3.02 and those general powers provided a nonprofit corporation by 11B V.S.A. § 3.02 and including, without limiting the generality of the foregoing, the power to:

* * *

(21) use funds received from real estate trust and escrow accounts established under 26 V.S.A. § 2214(c), IORTA funds, for down payment and closing cost assistance with priority given to persons and families at or below 90 percent of median income and to persons and families purchasing perpetually affordable housing;

(22) issue bonds, notes, and other obligations secured by the property transfer tax revenues transferred to the Agency pursuant to 32 V.S.A. § 9610(d).

Sec. 58. 10 V.S.A. § 631(1) is added to read:

(1)(1) The bonds, notes, and other obligations authorized to be issued pursuant to subdivision 621(22) of this title shall be secured by a pledge of the property transfer tax revenues to be transferred to the Agency pursuant to 32 V.S.A. § 9610(d) and shall mature on or before June 30, 2038.

(2) The Agency may issue the bonds, notes, and other obligations in one or more series at one time or from time to time, provided that the aggregate annual debt service on the bonds, notes, and other obligations shall not exceed \$2,500,000.00 at any time.

(3) The Agency shall transfer the proceeds of the bonds, notes, and other obligations, less issuance fees and costs and required reserves, to the Vermont Housing and Conservation Trust Fund established pursuant to section 312 of this title for use by the Vermont Housing and Conservation Board as provided in section 314 of this title.

(4) The Agency, the Vermont Housing and Conservation Board, and the State Treasurer may execute one or more agreements governing the terms and conditions under which the property transfer tax revenues that secure the bonds, notes, and obligations shall be transferred to the Agency, and any other issues they determine appropriate.

* * * Rooms and Meals Tax; Imposition of Surcharge for
Affordable Housing Bond * * *

Sec. 59. 32 V.S.A. § 9241a is added to read:

§ 9241a. AFFORDABLE HOUSING SURCHARGE;
ALLOCATION OF REVENUES

(a) In addition to the tax on the rent of each occupancy imposed in section 9241 of this title, an operator shall collect an affordable housing surcharge of \$0.35 for each night of the occupancy.

(b) The revenues generated by the surcharge imposed in subsection (a) of this section shall be allocated as follows:

(1) the first \$1,000,000.00 shall be transferred to the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312; and

(2) any remaining revenues shall be transferred to the General Fund created in section 435 of this title.

(c) The provisions of this chapter relating to the imposition, collection, remission, and enforcement of the meals and rooms tax imposed in section 9241 of this title shall apply to the affordable housing surcharge imposed in this section.

* * * Appropriation; Vermont Housing and Conservation Board * * *

Sec. 60. INTENT; FUNDING FOR AFFORDABLE HOUSING BOND PROGRAM; ALLOCATION OF PROPERTY TRANSFER TAX REVENUES

(a) Revenues from the property transfer tax are currently allocated pursuant to statute as follows:

(1) The first two percent is deposited in a special fund in the Department of Taxes for Property Valuation and Review administration costs pursuant to 32 V.S.A. § 9610(c).

(2) Of the remaining 98 percent of the revenues:

(A) 17 percent is deposited in the Municipal and Regional Planning Fund created in 24 V.S.A. § 4306.

(B) 50 percent is deposited in the Vermont Housing and Conservation Trust Fund created in 10 V.S.A. § 312.

(C) 33 percent is deposited in the General Fund created in 32 V.S.A. § 435.

(b) Pursuant to Sec. 56 of this act, in 32 V.S.A. § 9610(d), the first \$2,500,000.00 of revenue generated from the property transfer tax is transferred to the Vermont Housing Finance Agency to service the bonds, notes, and other obligations incurred by the Agency pursuant to 10 V.S.A. § 621(22), the proceeds of which the Vermont Housing and Conservation Board

shall use to create affordable housing pursuant to 10 V.S.A. § 314.

(c) Transferring the first \$2,500,000.00 of property transfer tax revenues to the Vermont Housing Finance Agency for debt service creates a proportionate reduction in the amount of revenues available for allocation to the respective statutory recipients identified in subsection (a) of this section.

(d) To compensate for this reduction of available property transfer tax revenue, it is the intent of the General Assembly through this act to provide for the transfer of \$2,500,000.00 to the Vermont Housing and Conservation Trust Fund, as follows:

(1) Sec. D.100(a)(2) of H.518 (2017) appropriates \$11,304,840.00 in fiscal year 2018 from the Vermont Housing and Conservation Trust Fund to the Vermont Housing and Conservation Board. Upon the effective date of this act, the Board shall transfer the amount of \$1,500,000.00 back to the Fund, resulting in a fiscal year 2018 total appropriation to the Board of \$9,804,840.00.

(2) As provided in Sec. 59 of this act, pursuant to 32 V.S.A. § 9241a, the first \$1,000,000.00 generated by the affordable housing surcharge shall be transferred to the Vermont Housing and Conservation Trust Fund.

*** * * Repeal of Affordable Housing Bond Provisions After 20 Years * * ***

Sec. 61. REPEAL

The following shall be repealed on July 1, 2038:

(1) 10 V.S.A. § 314 (Vermont Housing and Conservation Board; affordable housing bond and investments).

(2) 32 V.S.A. § 9610(d) (property transfer tax priority for affordable housing debt repayment).

(3) 10 V.S.A. § 621(22) (Vermont Housing Finance Agency (VHFA) authority to issue debt obligations secured by property transfer tax).

(4) 10 V.S.A. § 631(l) (debt obligations issued by VHFA).

(5) 32 V.S.A. § 9241a (affordable housing surcharge).

Second: In the redesignated Sec. 62 (effective dates) by adding a subdivision (13) to read:

(13) Secs. 53–61 (affordable housing) shall take effect on July 1, 2017.

H. 518.

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

H. 519.

An act relating to capital construction and State bonding.

Second Reading

Favorable with Proposal of Amendment

H. 506.

An act relating to professions and occupations regulated by the Office of Professional Regulation.

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

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

First: By striking out in their entirety Secs. 22–24 (regarding real estate appraisers) and inserting in lieu thereof the following:

Sec. 22. 26 V.S.A. § 3314 is amended to read:

§ 3314. BOARD; POWERS AND DUTIES

* * *

(b) In addition to its other powers and duties under this chapter, the Board shall:

* * *

~~(5) Inquire of the Vermont Crime Information Center for any information on criminal records of any and all applicants, and the Center shall provide such information to the Board. The Board, through the Vermont Crime Information Center, shall also inquire of the appropriate state criminal record repositories in all states in which it has reason to believe an applicant has resided or been employed, and it shall also inquire of the Federal Bureau of Investigation for any information on criminal records of applicants. The Board shall obtain fingerprints of the applicant, in digital form if practicable, and any appropriate identifying information for submission to the Federal Bureau of Investigation in connection with a state and national background check. Applicants shall bear all costs associated with background screening. The Board may also make additional inquiries it deems necessary into the character, integrity, and reputation of the applicant.~~

(6) Perform other functions and duties as may be necessary to carry out the provisions of this chapter and to comply with the requirements of the Act, including by adopting rules defining and regulating appraisal management companies in a manner consistent with the Act.

Sec. 23. 26 V.S.A. § 3320a is amended to read:

§ 3320a. APPRAISAL MANAGEMENT COMPANIES

~~(a) An appraisal management company acts as a broker in acquiring finished appraisals from real estate appraisers and supplying the appraisals to third parties, but appraisal management companies are not licensed to perform real estate appraisals under this chapter. Acting as an appraisal management company includes:~~

- ~~(1) administering or assigning work to licensed real estate appraisers;~~
- ~~(2) receiving requests for real estate appraisals from clients;~~
- ~~(3) receiving a fee paid by clients for acquiring real estate appraisals; or~~
- ~~(4) entering into an agreement with one or more real estate appraisers to perform appraisals.~~

~~(b) An appraisal management company does not include:~~

- ~~(1) a government agency;~~
- ~~(2) a bank, credit union, licensed lender, or savings institution;~~
- ~~(3) a person or entity that has as its primary business the performance of appraisals in accordance with this chapter but who or which, in the normal course of business, engages the services of a licensed appraiser to perform appraisals or related services that the person or entity cannot perform because of the location or type of property in question, workload, scope of practice required by an assignment, or to otherwise maintain professional responsibility to clients.~~

~~(c) An appraisal management company shall register with the Board prior to conducting business in this State. An application shall include a registration fee and information required by the Board that is necessary to determine eligibility for registration.~~

~~(d) When contracting for the performance of real estate appraisal services, an appraisal management company shall only engage the professional services of an appraiser licensed and in good standing to practice pursuant to this chapter.~~

~~(e) A registrant's employee reviewing finished appraisals shall be certified or licensed in good standing in one or more states and shall be certified at a level that corresponds with or is higher than the level of licensure required to perform the appraisal. [Repealed.]~~

Sec. 24. BOARD OF REAL ESTATE APPRAISERS, RULEMAKING AUTHORITY; GENERAL ASSEMBLY, INTENT; OFFICE OF PROFESSIONAL REGULATION, PRELIMINARY ASSESSMENT AND REPORT

(a) Rulemaking authority. The Board of Real Estate Appraisers may adopt the rules described in Sec. 22 of this act, (26 V.S.A. § 3314(b)(6)) prior to the effective date of that section.

(b) Intent. The amendments regarding real estate appraisers set forth in Secs. 22 and 23 of this act are intended to facilitate an informed decision by the General Assembly regarding whether the State should opt in or out of appraisal management company regulation in accordance with federal law permitting such state discretion and to allow Board rulemaking in preparation for that legislative decision.

(c) Preliminary assessment. The Director of the Office of Professional Regulation shall conduct a preliminary assessment of appraisal management company regulation in accordance with 26 V.S.A. chapter 57 and report his or her findings and recommendations to the Senate and House Committees on Government Operations on or before January 1, 2018.

Second: By striking out in its entirety Sec. 35 (effective dates) and its reader assistance heading and inserting in lieu thereof the following:

* * * Professional Regulation Report * * *

Sec. 35. PROFESSIONAL REGULATION REPORT

(a) The Director of the Office of Professional Regulation (Office) and leaders of the relevant agencies and departments shall cooperate in analyzing the professional regulation reports and other information gathered as a result of the professional regulation survey required by 2016 Acts and Resolves No. 156, Secs. 20 and 21.

(b) On or before December 15, 2017, the Office shall recommend to the Senate and House Committees on Government Operations any opportunities discovered as a result of the analysis described in subsection (a) of this section that would allow State government to operate in a more effective and efficient manner by consolidating the licensing functions or otherwise by reforming licensing practices in conformity with the policies set forth in 26 V.S.A. chapter 57 (review of regulatory laws).

* * * Effective Dates * * *

Sec. 36. EFFECTIVE DATES

This act shall take effect on July 1, 2017, except:

(1) Sec. 23, 26 V.S.A. § 3320a (appraisal management companies), shall take effect on August 10, 2018; and

(2) this section and the following sections shall take effect on passage:

(A) Sec. 24 (Board of Real Estate Appraisers, rulemaking authority; General Assembly, intent; Office of Professional Regulation, preliminary assessment and report);

(B) Secs. 33 and 34 (regarding APRN services in nursing homes); and

(C) Sec. 35 (professional regulation report).

(Committee vote: 5-0-0)

(No House amendments.)

H. 509.

An act relating to calculating statewide education tax rates.

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

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

First: In Sec. 1, subdivision (1), by striking out “\$10,077.00” and inserting in lieu thereof \$10,015.00, and in subdivision (2), by striking out “\$11,851.00” and inserting in lieu thereof \$11,820.00

Second: In Sec. 2, by striking out “\$1.555” and inserting in lieu thereof \$1.563

Third: By striking out the reader assistance and Secs. 3 through 5 (unfunded mandates) in their entirety and inserting in lieu thereof new Secs. 3 through 5 to read:

Sec. 3. [Deleted.]

Sec. 4. [Deleted.]

Sec. 5. [Deleted.]

(Committee vote: 5-2-0)

(For House amendments, see House Journal for March 28, 2017, pages 529-531 and March 29, 2017, page 588.)

House Proposal of Amendment

S. 20

An act relating to permanent licenses for persons 66 years of age or older.

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

By striking out Sec. 2 (effective date) in its entirety and inserting in lieu thereof two new sections to be Secs. 2 and 3 to read:

Sec. 2. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER FUND BOARD

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

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

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

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

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

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

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

(6) Four members of the public to be appointed as follows:

(A) The Speaker of the House of Representatives shall appoint two members of the public, one of whom shall be a municipal official.

(B) The Committee on Committees shall appoint two members of the public, one of whom shall be a municipal official.

(C) Of the members appointed under this subdivision (6), it is the intent of the General Assembly that at any one time a member representing each of the following major watersheds shall be serving on the Board:

(i) the Connecticut River watershed;

(ii) the Hudson River watershed;

(iii) the Lake Champlain watershed; and

(iv) the Lake Memphremagog watershed.

(c) Officers; committees; rules; reimbursement.

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

(2) Members of the Board who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 paid from the budget of the Agency of Administration for attendance of meetings of the Board.

* * *

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

Sec. 3. EFFECTIVE DATES

(a) This section and Sec. 2 (Clean Water Fund Board) shall take effect on passage.

(b) Sec. 1 (permanent fishing and hunting licenses) shall take effect on January 1, 2018.

House Proposal of Amendment

S. 72

An act relating to requiring telemarketers to provide accurate caller identification information.

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

* * * Telemarketers; Accurate Caller I.D. Information * * *

Sec. 1. 9 V.S.A. chapter 63, subchapter 1 is amended to read:

Subchapter 1. General Provisions

* * *

§ 2464a. PROHIBITED TELEPHONE SOLICITATIONS

(a) Definitions. As used in this section, section 2464b, and section 2464c of this title:

(1) “Customer” means a customer, residing or located in Vermont, of a company providing telecommunications service as defined in 30 V.S.A. § 203(5).

(2) “Caller identification information” means information a caller identification service provides regarding the name and number of the person calling.

(3) “Caller identification service” means a service that allows a subscriber of the service to have the telephone number, and where available, the name of the calling party transmitted contemporaneously with the telephone call and displayed on a device in or connected to the subscriber’s telephone.

(4) “Federal functional regulator” means a federal functional regulator as defined in 15 U.S.C. § 6809(2).

~~(3)~~(5) “Financial institution” means a financial institution as defined in 15 U.S.C. § 6809(3).

~~(4)~~(6) “Tax-exempt organization” means an organization described in Section 501(c) of the Internal Revenue Service Code (26 U.S.C. § 501(c)).

~~(5)~~(7) “Telemarketer” means any telephone solicitor. However, “telemarketer” does not include any telephone solicitor who is otherwise registered or licensed with, or regulated or chartered by, the Secretary of State, the Public Service Board, the Department of Financial Regulation, or the Department of Taxes, or is a financial institution subject to regulations adopted pursuant to 15 U.S.C. § 6804(a) by a federal functional regulator. Telephone solicitors registered with the Department of Taxes to collect Vermont income withholding, sales and use, or meals and rooms tax, but not registered with any other agency listed in this subdivision, shall provide to the Secretary of State an address and agent for the purpose of submitting to the jurisdiction of the Vermont courts in any action brought for violations of this section.

~~(6)~~(8) “Telephone solicitation”:

(A) means the solicitation by telephone of a customer for the purpose of encouraging the customer to contribute to an organization ~~which~~ that is not a tax-exempt organization, or to purchase, lease, or otherwise agree to pay consideration for money, goods, or services; and

(B) does not include:

(i) telephone calls made in response to a request or inquiry by the called customer;

(ii) telephone calls made by or on behalf of a tax-exempt organization, an organization incorporated as a nonprofit organization with the

State of Vermont, or an organization in the process of applying for tax-exempt status or nonprofit status;

(iii) telephone calls made by a person not regularly engaged in the activities listed in subdivision (A) of this subdivision ~~(6)(8)~~; or

(iv) telephone calls made to a person with whom the telephone solicitor has an established business relationship.

~~(7)(9)~~ “Telephone solicitor” means any person placing telephone solicitations, or hiring others, on an hourly, commission, or independent contractor basis, to conduct telephone solicitations.

(b) Prohibition; Caller Identification Information.

(1) No telemarketer shall make a telephone solicitation to a telephone number in Vermont without having first registered in accordance with section 2464b of this title.

(2) No person shall make any telephone call to a telephone number in Vermont ~~which~~ that violates the Federal Trade Commission’s Do Not Call Rule, 16 C.F.R. subdivision 310.4(b)(1)(iii), or the Federal Communication Commission’s Do Not Call Rule, 47 C.F.R. subdivision 64.1200(c)(2) and subsection (d), as amended from time to time.

(3)(A) A person who places a telephone call to make a telephone solicitation, or to induce a charitable contribution, donation, or gift of money or other thing of value, shall transmit or cause to be transmitted to a caller identification service in use by the recipient of the call:

(i) the caller’s telephone number; and

(ii) if made available by the caller’s carrier, the caller’s name.

(B) Notwithstanding subdivision (A) of this subdivision (3), a caller may substitute for its own name and number the name and the number, which is answered during regular business hours, of the person on whose behalf the caller places the call.

(c) Violation. A violation of this section shall constitute a violation of section 2453 of this title. Each prohibited telephone call shall constitute a separate violation. In considering a civil penalty for violations of subdivision (b)(2) of this section, the court may consider, among other relevant factors, the extent to which a telephone solicitor maintained and complied with procedures designed to ensure compliance with the rules of the Federal Communications Commission and the Federal Trade Commission.

(d) Criminal Penalties. A telemarketer who makes a telephone solicitation in violation of subdivision (b)(1) of this section shall be imprisoned for not

more than 18 months or fined not more than \$10,000.00, or both. It shall be an affirmative defense, for a telemarketer with five or fewer employees, that the telemarketer did not know, and did not consciously avoid knowing, that Vermont has a requirement of registration of telemarketers. Each telephone call shall constitute a separate solicitation under this section. This section shall not be construed to limit a person's liability under any other civil or criminal law.

§ 2464b. REGISTRATION OF TELEMARETERS

(a) Every telemarketer shall register with the Secretary of State, on a form approved by the Secretary. In the case of a telemarketer who hires, whether on an hourly, commission, or independent contractor basis, one or more persons to conduct telephone solicitations, only the person who causes others to conduct telephone solicitations need register. The Secretary of State may adopt rules prescribing the manner in which registration under this section shall be conducted, including a requirement of notice to the Secretary by the telemarketer when the telemarketer ceases to do business in Vermont.

(b) The Secretary of State shall require that each telemarketer designate an agent for the purpose of submitting to the jurisdiction of the Vermont courts in any action brought for violations of section 2464a of this title.

(c) The Secretary of State shall collect the following fees when a document described in this section is delivered to the Office of the Secretary of State for filing:

(1) Registration: \$125.00.

(2) Statement of change of designated agent or designated office, or both: \$25.00, not to exceed \$1,000.00 per filer per calendar year.

§ 2464c. PRIVATE CAUSE OF ACTION

Any person who receives a telephone call in violation of subsection 2464a(b) of this title may bring an action in Superior Court for damages, injunctive relief, punitive damages in the case of a willful violation, and reasonable costs and attorney's fees. The ~~Court~~ court may issue an award for the person's actual damages or \$500.00 for a first violation, or \$1,000.00 for each subsequent violation, whichever is greater. In considering the amount of punitive damages, the ~~Court~~ court may consider, among other relevant factors, the extent to which a telephone solicitor maintained and complied with procedures designed to ensure compliance with the requirements of sections 2464a and 2464b of this title. This section shall not limit any other claims the person may have under applicable law.

* * *

* * * Data Brokers * * *

Sec. 2. DATA BROKERS; RECOMMENDATION

(a) Findings. The General Assembly finds that:

(1) The data broker industry brings benefits to society by:

(A) providing data necessary for the operation of both the public and private sectors;

(B) supporting the critical flow of information for interstate and intrastate commerce; and

(C) aiding in securing and protecting consumer identities.

(2) Despite these benefits, concerns have arisen about the data broker industry, including:

(A) how the data broker industry or persons accessing the industry may directly or indirectly harm vulnerable populations;

(B) the use of the data broker industry by those who harass, stalk, and otherwise harm others;

(C) whether appropriate safeguards are in place to assure that our most sensitive information is not sold to identity thieves, scammers, and other criminals; and

(D) the impact of the data broker industry on the privacy, dignity, and well-being of the people of Vermont.

(b) Recommendation. On or before December 15, 2017, the Commissioner of Financial Regulation and the Attorney General, in consultation with industry and consumer stakeholders, shall submit a recommendation or draft legislation to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs reflecting:

(1) an appropriate definition of the term “data broker”;

(2) whether and, if so, to what extent the data broker industry should be regulated by the Commissioner of Financial Regulation or the Attorney General;

(3) additional consumer protections that data broker legislation should seek to include that are not addressed within the framework of existing federal and State consumer protection laws; and

(4) proposed courses of action that balance the benefits to society that the data broker industry brings with actual and potential harms the industry may pose to consumers.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

House Proposal of Amendment

S. 127

An act relating to miscellaneous changes to laws related to vehicles and vessels.

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

* * * Special Plates and Placards for Persons With Disabilities * * *

Sec. 1. 23 V.S.A. § 304a is amended to read:

§ 304a. SPECIAL REGISTRATION PLATES AND PLACARDS FOR
PEOPLE WITH DISABILITIES

(a) The following definitions shall apply to this section:

* * *

(6) “Eligible person” means:

(A) a person who is blind or has an ambulatory disability and has been issued a special registration plate or a windshield placard by this State or another state;

(B) a person who is transporting a person described in subdivision (A) of this subdivision (6); or

(C) a person transporting a person who is blind or has an ambulatory disability on behalf of an organization that has been issued a special registration plate or a windshield placard by this State or another state for the purpose of transporting a person who is blind or has an ambulatory disability.

* * *

(e)(1) A person, other than an eligible person, who for his or her own purposes parks a vehicle in a space for persons with disabilities shall be ~~fin~~ subject to a civil penalty of not less than \$200.00 for each violation and shall be liable for towing charges.

(2) A person, other than an eligible person, who displays a special registration plate or removable windshield placard not issued to him or her under this section and parks a vehicle in a space for persons with disabilities, shall be subject to a civil penalty of not less than \$400.00 for each violation and shall be liable for towing charges.

(3) ~~He or she shall~~ A person who violates this section also shall be liable

for storage charges not to exceed \$12.00 per day, and an artisan's lien may be imposed against the vehicle for payment of the charges assessed.

(4) The person in charge of the parking space or spaces for persons with a disability or any duly authorized law enforcement officer shall cause the removal of a vehicle parked in violation of this section.

(5) A violation of this section shall be considered a traffic violation within the meaning of 4 V.S.A. chapter 29.

* * *

* * * Special License Plates * * *

Sec. 2. 23 V.S.A. § 304b is amended to read:

§ 304b. CONSERVATION MOTOR VEHICLE REGISTRATION PLATES

* * *

(b) Initial fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$12.00~~ 46 percent to the Transportation Fund.

(2) ~~\$7.00~~ 27 percent to the Department of Fish and Wildlife for deposit into the Nongame Wildlife Account created in 10 V.S.A. § 4048.

(3) ~~\$7.00~~ 27 percent to the Department of Fish and Wildlife for deposit into the Watershed Management Account created in 10 V.S.A. § 4050.

(c) Renewal fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$11.00~~ 42 percent to the Department of Fish and Wildlife for deposit into the Nongame Wildlife Account created in 10 V.S.A. § 4048.

(2) ~~\$11.00~~ 42 percent to the Department of Fish and Wildlife for deposit into the Watershed Management Account created in 10 V.S.A. § 4050.

(3) ~~\$4.00~~ 16 percent to the Transportation Fund.

(d) The Commissioner of Fish and Wildlife is authorized to deposit fees collected by the Department of Fish and Wildlife under subsections (b) and (c) of this section into the Conservation Camp Fund when the fees collected exceed the annual funding needs of the Nongame Wildlife Account and the Watershed Management Account.

Sec. 3. 23 V.S.A. § 304c is amended to read:

§ 304c. MOTOR VEHICLE REGISTRATION PLATES: BUILDING
BRIGHT SPACES FOR BRIGHT FUTURES FUND

* * *

(b) Fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$7.00~~ 29 percent to the Transportation Fund.

(2) ~~\$17.00~~ 71 percent to the Department for Children and Families for deposit in the Bright Futures Fund created in 33 V.S.A. § 3531.

(c) Renewal fees collected under subsection (a) of this section shall be allocated as follows:

(1) ~~\$19.00~~ 79 percent to the Department for Children and Families for deposit in the Bright Futures Fund in 33 V.S.A. § 3531.

(2) ~~\$5.00~~ 21 percent to the Transportation Fund.

(d) The Department of Motor Vehicles shall be charged by the Department of Corrections for the production of the Bright Futures Fund license plates.

* * * Annual Special Excess Weight Permits * * *

Sec. 4. 23 V.S.A. § 305 is amended to read:

§ 305. REGISTRATION PERIODS

(a) The Commissioner of Motor Vehicles shall issue registration certificates, validation stickers, and number plates upon initial registration, and registration certificates and validation stickers for each succeeding renewal period of registration, upon payment of the registration fee. Number plates so issued will become void one year from the first day of the month following the month of issue unless a longer initial registration period is authorized by law, or unless this period is extended through renewal. Registrations issued for motor trucks shall become void one year from the first day of the month following the month of issue. ~~The fees for annual special excess weight permits issued to these vehicles pursuant to section 1392 of this title shall be prorated so as to coincide with registration expiration dates.~~

* * *

* * * Temporary Registration * * *

Sec. 5. 23 V.S.A. § 312 is amended to read:

§ 312. TEMPORARY REGISTRATION PENDING ISSUANCE OF CERTIFICATE OF TITLE

(a) In his or her discretion, the Commissioner may issue a temporary registration certificate to a person required to obtain a certificate of title in accordance with chapter 21 of this title upon payment of the registration fee provided in subchapter 2 of this chapter and of the title fee. The temporary

registration certificate and the number plate shall be valid for 60 days and shall not be renewed. At the expiration of the temporary registration, a permanent registration certificate and a set of number plates shall be issued provided that all documents and information required by law are filed with the Commissioner.

(b) The registration fee paid in accordance with subsection (a) of this section shall not be refunded, except that the fee shall be deemed the fee for the permanent registration, if one is issued, or shall be deemed the fee for another an application for registration to register another vehicle, if the title requirements are met during that registration period. Likewise, the title fee shall be deemed the fee for the title, if one is issued, or shall be deemed the fee for an application to title another vehicle.

* * * Registration Transfers * * *

Sec. 6. 23 V.S.A. § 321 is amended to read:

§ 321. PROCEDURE UPON TRANSFER

Upon the transfer of ownership of any registered motor vehicle its registration shall expire. The person in whose name the transferred vehicle was registered shall immediately return direct to the Commissioner the registration certificate assigned to the transferred vehicle, with the date of sale and the name and residence of the new owner endorsed on the back. However, the Commissioner may accept any other satisfactory evidence of the above required information. The transferor shall forthwith remove the registration number plates from the transferred vehicle and may attach the same to another unregistered motor vehicle owned by him or her. Upon the transfer of registration plates from a motor vehicle, the registration of which has expired as above provided, to another motor vehicle, owned by the ~~transferer~~ transferor, the owner or operator shall not, for a period of ~~30~~ 60 days, be subject to a fine for the operation of the latter motor vehicle without the proper registration certificate, provided he or she has, within 24 hours of the transfer, made application, as provided in section 323 of this title, for transfer of the registration number plates. If such application for transfer is not so received by the Commissioner, the number plates shall be returned to the Commissioner at the end of five days after the transfer of ownership.

* * * Registration Fees; Local Transit Buses * * *

Sec. 7. 23 V.S.A. § 372a is amended to read:

§ 372a. LOCAL TRANSIT PUBLIC TRANSPORTATION SERVICE

(a) The annual registration fee for any motor bus used in local transit or public transportation service shall be \$62.00, except for those vehicles owned by a municipality for such service that are subject to the provisions of section

376 of this title. In the event a bus registered for local transit or public transportation service is thereafter registered for general use during the same registration year, such fee shall be applied towards the fee for general registration.

(b) As used in this section, a motor bus used in public transportation service bus is a bus used by a nonprofit public transit system as defined in 24 V.S.A. § 5088(3), and a motor bus used in local transit bus is a motor bus used entirely within or not more than 40 100 miles beyond the boundaries of a city or town.

* * * Exhibition Vehicles * * *

Sec. 8. 23 V.S.A. § 373 is amended to read:

§ 373. EXHIBITION VEHICLES; YEAR OF MANUFACTURE PLATES

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

(1) use in exhibitions, club activities, parades, and other functions of public interest; and

(2) occasional transportation of passengers or property not more than one day per week.

* * *

* * * Licenses and Permits to Operate; Refusals to Issue * * *

Sec. 9. 23 V.S.A. § 603(c) is amended to read:

(c) An ~~operator~~ operator's license, junior ~~operator~~ operator's license, or ~~learner~~ learner's permit shall not be issued to an applicant whose license ~~or learner~~, learner's permit, or privilege to operate is suspended, revoked, or canceled in any jurisdiction.

Sec. 10. CONFORMING CHANGES

(a) In 23 V.S.A. § 601(b), the phrase "operator licenses" shall be replaced with "operator's licenses" wherever it appears.

(b) In 23 V.S.A. § 603(b) and (d), wherever they appear:

(1) The phrase "operator license" shall be replaced with "operator's license."

(2) The phrase "junior operator license" shall be replaced with "junior

operator's license."

(3) The phrase "learner permit" shall be replaced with "learner's permit."

* * * Learner's Permits; Operation Under * * *

Sec. 11. 23 V.S.A. § 615 is amended to read:

§ 615. UNLICENSED OPERATORS

(a)(1)(A) An unlicensed person 15 years of age or older may operate a motor vehicle if he or she possesses a valid learner's permit issued to him or her by the Commissioner, or by another jurisdiction in accordance with section 208 of this title, and if one of the following persons who is not under the influence of alcohol or drugs rides beside him or her:

(i) his or her licensed parent or guardian;

(ii) a licensed or certified driver education instructor;

(iii) a licensed examiner of the Department; or

(iv) a licensed person at least 25 years of age ~~rides beside him or her.~~

(B) A person described under subdivisions (A)(i)-(iv) of this subdivision (1) who, while under the influence of alcohol or drugs, rides beside an individual whom the person knows to be unlicensed shall be subject to the same penalties as for a violation of subsection 1130(b) of this title. A holder of a learner's permit shall not be deemed to have violated this section if a person described under subdivisions (A)(i)-(iv) of this subdivision (1) rides beside him or her while the person is under the influence of alcohol or drugs.

(C) Nothing in this section shall be construed to permit a person against whom a revocation or suspension of license is in force, or a person younger than 15 years of age, or a person who has been refused a license by the Commissioner to operate a motor vehicle.

* * *

* * * Distracted Driving * * *

Sec. 12. 23 V.S.A. § 1095b is amended to read:

§ 1095b. HANDHELD USE OF PORTABLE ELECTRONIC DEVICE
PROHIBITED

* * *

(c) Penalties.

(1) A person who violates this section commits a traffic violation and

shall be subject to a fine of not less than \$100.00 and not more than \$200.00 for a first violation, and of not less than \$250.00 and not more than \$500.00 for a second or subsequent violation within any two-year period.

(2) A person convicted of violating this section while operating within a ~~properly designated work zone in which construction, maintenance, or utility personnel are present~~ the following areas shall have ~~two~~ four points assessed against his or her driving record for a first conviction and five points assessed for a second or subsequent conviction:

(A) a properly designated work zone in which construction, maintenance, or utility personnel are present; or

(B) a school zone marked with warning signs conforming to the Manual on Uniform Traffic Control Devices.

(3) A person convicted of violating this section outside ~~a work zone in which personnel are present~~ the areas designated in subdivision (2) of this subsection shall ~~not~~ have two points assessed against his or her driving record for a first conviction and four points assessed for a second or subsequent conviction.

* * *

Sec. 13. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

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

(1) Two points assessed for:

* * *

- (LL)(i) § 1095. Entertainment picture visible to operator;
- (ii) § 1095b(c)~~(2)~~(3) Use of portable electronic device in outside work or school zone - first offense;

* * *

(3) Four points assessed for:

- (A) § 1012. Failure to obey enforcement officer;
- (B) § 1013. Authority of enforcement officers;
- (C) § 1051. Failure to yield to pedestrian;
- (D) § 1057. Failure to yield to persons who are blind;
- (E) § 1095b(c)(2) Use of portable electronic device in work or school zone—first offense;
- (F) § 1095b(c)(3) Use of portable electronic device outside work or school zone—second and subsequent offenses;

(4) Five points assessed for:

- (A) § 1050. Failure to yield to emergency vehicles;
- (B) § 1075. Illegal passing of school bus;
- (C) § 1099. Texting prohibited;
- (D) § 1095b(c)(2) Use of portable electronic device in work or school zone—second and subsequent offenses;

* * *

* * * DUI-Related Provisions * * *

Sec. 14. 23 V.S.A. chapter 13, subchapter 13 is amended to read:

Subchapter 13. Drunken Driving

§ 1200. DEFINITIONS

As used in this subchapter:

* * *

(10) “Random retest” means a test of a vehicle operator’s blood alcohol concentration, other than a test required to start the vehicle, that is required at random intervals during operation of a vehicle equipped with an ignition interlock device.

* * *

§ 1209a. CONDITIONS OF REINSTATEMENT; ALCOHOL AND DRIVING EDUCATION; SCREENING; THERAPY PROGRAMS

* * *

(b) Abstinence.

(1)(A) Notwithstanding any other provision of this subchapter, a person whose license or privilege to operate has been suspended or revoked for life under this subchapter may apply to the Driver Rehabilitation School Director and to the Commissioner for reinstatement of his or her driving privilege. The person shall have completed three years of total abstinence from consumption of alcohol or nonprescription regulated drugs, or both. The use of a regulated drug in accordance with a valid prescription shall not disqualify an applicant for reinstatement of his or her driving privileges unless the applicant used the regulated drug in a manner inconsistent with the prescription label.

(B) The beginning date for the period of abstinence shall be no sooner than the effective date of the suspension or revocation from which the person is requesting reinstatement and shall not include any period during which the person is serving a sentence of incarceration to include furlough. The application shall include the applicant's authorization for a urinalysis examination to be conducted prior to reinstatement under this subdivision. The application to the Commissioner shall be accompanied by a fee of \$500.00. The Commissioner shall have the discretion to waive the application fee if the Commissioner determines that payment of the fee would present a hardship to the applicant.

* * *

§ 1213. IGNITION INTERLOCK RESTRICTED DRIVER'S LICENSE OR CERTIFICATE; PENALTIES

* * *

(e) ~~Except as provided in subsection (m) of this section, the~~ The holder of an ignition interlock RDL or ignition interlock certificate shall pay the costs of installing, purchasing or leasing, and removing the ignition interlock device as well as calibrating the device and retrieving data from it periodically as may be specified by the Commissioner.

* * *

(1)(1) The Commissioner, in consultation with any individuals or entities the Commissioner deems appropriate, shall adopt rules and may enter into agreements to implement the provisions of this section. The Commissioner shall not approve a manufacturer of ignition interlock devices as a provider in this State unless the manufacturer agrees to reduce the cost of installing, leasing, and deinstalling the device by at least 50 percent for persons who furnish proof of receipt of 3SquaresVT, LIHEAP, or Reach Up benefits or like

benefits in another state.

(2) The rules shall establish uniform performance standards for ignition interlock devices including required levels of accuracy in measuring blood alcohol concentration, efficacy in distinguishing valid breath samples, the occurrence of random retests while the vehicle is running, and automatic signaling by the vehicle if the operator fails such a retest. After an initial random retest to occur within 15 minutes of the vehicle starting, subsequent random retests shall occur on average not more often than once every 30 minutes. The Commissioner shall certify devices that meet these standards, specify any periodic calibration that may be required to ensure accuracy of the devices, and specify the means and frequency of the retrieval and sharing of data collected by ignition interlock devices. ~~Persons who elect to obtain an ignition interlock RDL or certificate following a conviction under this subchapter when the person's blood alcohol concentration is proven to be 0.16 or more shall be required to install an ignition interlock device with a Global Positioning System feature.~~ The rules also shall establish a schedule of extensions of the period prior to eligibility for reinstatement as authorized under subsection (h) of this section.

* * *

* * * Length of Vehicles * * *

Sec. 15. 23 V.S.A. § 1402(b)(2) is amended to read:

~~(2) Notwithstanding the provisions of this section, the Agency of Transportation may erect signs at those locations where it would be unsafe to operate vehicles in excess of 68 feet in length. [Repealed.]~~

Sec. 16. 23 V.S.A. § 1432 is amended to read:

§ 1432. LENGTH OF VEHICLES; ~~AUTHORIZED HIGHWAYS~~

* * *

~~(f) List of approved highways. The Commissioner shall prepare a list of each highway that has been approved for travel by vehicles referred to in subsection (a) of this section. The list shall be furnished, without charge, to each permitting service, electronic dispatching service, or other similar service authorized to do business in this State and, upon request, to any interested person. [Repealed.]~~

* * * Transfer of Title, Registration; Vessels, Snowmobiles, and ATVs * * *

Sec. 17. 23 V.S.A. § 3816 is amended to read:

§ 3816. TRANSFER OF INTEREST IN VESSEL, SNOWMOBILE, OR ALL-TERRAIN VEHICLE

(a) If an owner transfers his or her interest in a vessel, snowmobile, or all-terrain vehicle, other than by the creation of a security interest, he or she shall, at the time of delivery of the vessel, snowmobile, or all-terrain vehicle, execute an assignment and warranty of title to the transferee in the space provided on the certificate or as the Commissioner prescribes, and cause the certificate and assignment to be mailed or delivered to the transferee or to the Commissioner. Where title to a vessel, snowmobile, or all-terrain vehicle is in the name of more than one person, the nature of the ownership must be indicated by one of the following on the certificate of title:

* * *

(e)(1) Pursuant to the provisions of 14 V.S.A. § 313, whenever the estate of an individual who dies intestate consists principally of a vessel, snowmobile, or all-terrain vehicle, the surviving spouse shall be deemed to be the owner of the vessel, snowmobile, or all-terrain vehicle and title to the vessel, snowmobile, or all-terrain vehicle shall automatically pass to the surviving spouse. The surviving spouse may register. Upon request, the Department shall register and title the vessel, snowmobile, or all-terrain vehicle by paying a transfer fee not to exceed \$2.00 in the name of the surviving spouse, and no fee shall be assessed.

(2) Notwithstanding any contrary provision of law, and except as provided in subdivision (3) of this subsection, whenever the estate of an individual consists in whole or in part of a vessel, snowmobile, or all-terrain vehicle, and the person's will or other testamentary document does not specifically address disposition of the same, the surviving spouse shall be deemed to be the owner and title to the vessel, snowmobile, or all-terrain vehicle shall automatically pass to the surviving spouse. Upon request, the Department shall register and title the vessel, snowmobile, or all-terrain vehicle in the name of the surviving spouse, and no fee shall be assessed.

(3) This subsection shall not apply if the vessel, snowmobile, or all-terrain vehicle is titled in the name of one or more persons other than the decedent and the surviving spouse.

* * * Enforcement of Snowmobile and Boating Violations * * *

Sec. 18. REPEAL

12 V.S.A. chapter 193 (snowmobile and boating violations) is repealed.

Sec. 19. 23 V.S.A. § 3208 is amended to read:

§ 3208. ADMINISTRATION AND ENFORCEMENT

* * *

(d) The provisions of this subchapter and the rules adopted pursuant thereto

shall be enforced by law enforcement officers as defined in section 3302 of this title in accordance with the provisions of ~~12 V.S.A. chapter 193~~ 4 V.S.A. chapter 29. Testimony of a witness as to the existence of navigation or snowmobile control signs, signals, or markings, shall be prima facie evidence that such control, sign, signal, or marking existed pursuant to a lawful statute, regulation, or ordinance and that the defendant was lawfully required to obey a direction of such device.

(e) Law enforcement officers as defined in section 3302 of this title, ~~in accordance with the provisions of 12 V.S.A. chapter 193,~~ may conduct safety inspections on snowmobiles stopped for other snowmobile law violations on the Statewide Snowmobile Trail System. Safety inspections may also be conducted in a designated area by law enforcement officials. A designated area shall be warned solely by blue lights either on a stationary snowmobile parked on a trail or on a cruiser parked at a roadside trail crossing.

Sec. 20. 23 V.S.A. § 3318 is amended to read:

§ 3318. ADMINISTRATION AND ENFORCEMENT

(a) The administration of the provisions of this chapter, as they pertain to the registration and numbering of vessels and the suspension of the privilege to operate vessels, shall be the responsibility of the Department of Motor Vehicles.

* * *

(c) The provisions of this subchapter and the rules adopted pursuant to this subchapter shall be enforced by law enforcement officers as defined in section 3302 of this title in accordance with the provisions of ~~12 V.S.A. chapter 193~~ 4 V.S.A. chapter 29. Law enforcement officers as defined in section 3302 of this title may also enforce the provisions of 10 V.S.A. § 1454 and the rules adopted pursuant to 10 V.S.A. § 1424 in accordance with the requirements of 10 V.S.A. chapter 50.

* * * Motor Vehicle Purchase and Use Tax * * *

Sec. 21. 32 V.S.A. § 8902(5) is amended to read:

(5) “Taxable cost” means the purchase price as defined in subdivision (4) of this section or the taxable cost as determined under section 8907 of this title. For any purchaser who has paid tax on the purchase or use of a motor vehicle that was sold or traded by the purchaser or for which the purchaser received payment under a contract of insurance, the taxable cost of the replacement motor vehicle other than a leased vehicle shall exclude:

* * *

(B) the amount received from the sale of a motor vehicle last

registered in his or her name, the amount not to exceed the ~~average book~~ clean trade-in value of the same make, type, model, and year of manufacture as designated by the manufacturer and as shown in the NADA Official Used Car Guide, ~~National Automobile Dealers Association~~ (New England edition), or any comparable publication, provided such sale occurs within three months of the taxable purchase. However, this three-month period shall be extended day-for-day for any time that a member of a guard unit or of the U.S. Armed Forces, as defined in 38 U.S.C. § 101(10), spends outside Vermont due to activation or deployment, and an additional 60 days following the person's return from activation or deployment. Such amount shall be reported on forms supplied by the Commissioner of Motor Vehicles;

* * *

Sec. 22. 32 V.S.A. § 8907 is amended to read:

§ 8907. COMMISSIONER, COMPUTATION OF TAXABLE COSTS

(a) The Commissioner may investigate the taxable cost of any motor vehicle transferred subject to the provisions of this chapter. If the motor vehicle is not acquired by purchase in Vermont or is received for an amount which does not represent actual value, or if no tax form is filed or it appears to the Commissioner that a tax form contains fraudulent or incorrect information, the Commissioner may, in his or her discretion, fix the taxable cost of the motor vehicle at the ~~average book~~ clean trade-in value of vehicles of the same make, type, model, and year of manufacture as designated by the manufacturer, as shown in the NADA Official Used Car Guide, ~~National Automobile Dealers Association~~ (New England Edition) or any comparable publication, less the lease end value of any leased vehicle. The Commissioner may compute and assess the tax due thereon, and notify the purchaser thereof forthwith by certified mail, and the purchaser shall remit the same within 15 days thereafter.

* * *

Sec. 23. MOTOR VEHICLE PURCHASE AND USE TAX; EXTENSION OF THREE-MONTH PERIOD TO REDUCE TAXABLE COST

(a) Notwithstanding 32 V.S.A. § 8902(5)(B), the three-month limitation on the period in which to reduce the taxable cost of a motor vehicle by the sale of a previously owned vehicle shall not apply in the case of vehicles sold to the manufacturer pursuant to buyback agreement under a Volkswagen, Audi, or Porsche diesel engine defeat device settlement or judgment, if the vehicle is sold to the manufacturer:

(1) on or before November 10, 2017, in the case of 2.0 liter diesel engine Volkswagens and Audis; or

(2) on or before one year after buybacks commence under the 3.0 liter diesel engine class action settlement for Volkswagens, Audis, and Porsches.

(b) If a person paid a purchase and use tax in excess of the amount that would have been required if this section had been in effect at the time of the tax payment, the Commissioner of Motor Vehicles, upon application, shall issue the person a refund in accordance with this section.

* * * Vermont Strong License Plates * * *

Sec. 24. VERMONT STRONG MOTOR VEHICLE PLATES

(a) In 2012 Acts and Resolves No. 71, Sec. 1, as amended by 2012 Acts and Resolves No. 143, Sec. 13, the General Assembly authorized the Department of Motor Vehicles to distribute “Vermont Strong” commemorative plates and authorized operators of certain Vermont-registered vehicles to display the commemorative plates over the regular front registration plates of such vehicles until June 30, 2014. In 2014 Acts and Resolves No. 189, Sec. 26, the authorized display period was extended to June 30, 2016.

(b) Through an executive order issued on June 2, 2016, No. 3–74, the Governor ordered and directed that the Commissioner of Motor Vehicles continue to permit Vermonters to display Vermont Strong plates on the front of eligible vehicles and that Vermont law enforcement officers refrain from ticketing or otherwise penalizing any Vermonter for displaying a Vermont Strong plate on eligible vehicles “until the General Assembly next has the opportunity to consider and clarify the duration of Vermont Strong Commemorative License Plates.”

(c) Under 23 V.S.A. § 511(a), “A motor vehicle operated on any highway shall have displayed in a conspicuous place either one or two number plates as the Commissioner may require.” The Commissioner has implemented this authority through a regulation, CVR 14-050-025, which states, “Two registration plates are issued to and must be displayed by all registered vehicles” with the exception of certain listed vehicles. The listed exceptions do not include pleasure cars or motor trucks, which therefore are required to display two registration plates unless otherwise provided by law.

(d) This subsection supersedes Executive Order 3–74. The display of Vermont Strong commemorative plates in place of front registration plates no longer is authorized. On and after September 1, 2017, the Commissioner of Motor Vehicles and law enforcement officers shall enforce the provisions of 23 V.S.A. § 511(a) and CVR 14-050-025 that require the display of two registration plates on pleasure cars and on motor trucks. Prior to September 1, 2017, the Commissioner shall take measures to raise public awareness that the display of Vermont Strong commemorative plates in place of front registration

plates no longer is authorized.

* * * Incident Clearance; Duties; Limitation on Liability * * *

Sec. 25. 23 V.S.A. § 1102 is amended to read:

§ 1102. REMOVAL OF STOPPED VEHICLES

(a) Any Subject to subsection (c) of this section, any enforcement officer is authorized to:

(1) move cause the removal of a vehicle stopped, parked, or standing contrary to section 1101 of this title, or ~~to~~ require the driver or other person in charge to move the vehicle to a safe position off the ~~paved or~~ main-traveled part of the highway;

(2) remove cause the removal of an unattended vehicle ~~which~~ or cargo that is an obstruction to traffic or to maintenance of the highway to a garage or other place of safety;

(3) remove cause the removal of any vehicle found upon a highway, as defined in 19 V.S.A. § 1, to a garage or other place of safety when:

(A) the officer is informed by a reliable source that the vehicle has been stolen or taken without the consent of its owner; or

(B) the person in charge of the vehicle is unable to provide for its removal; or

(C) the person in charge of the vehicle has been arrested under circumstances ~~which~~ that require his or her immediate removal from control of the vehicle.

(b) In the case of a crash involving a serious bodily injury or fatality, clearance of the crash scene may be delayed until the crash investigation is completed.

(c) A towing operator shall undertake removal of a vehicle or cargo under this section only if summoned to the scene by the vehicle owner or vehicle operator, or an enforcement officer, and is authorized to perform the removal as follows:

(1) The owner or operator of the vehicle or cargo being removed shall summon to the scene the towing operator of the owner's or operator's choice in consultation with the enforcement officer and designate the location to where the vehicle or cargo is to be removed.

(2) The provisions of subdivision (1) of this subsection shall not apply when the owner or operator is incapacitated or otherwise unable to summon a towing operator, does not make a timely choice of a towing operator, or defers

to the enforcement officer's selection of the towing operator.

(3) The authority provided to the owner or operator under subdivision (1) of this subsection may be superseded by the enforcement officer if the towing operator of choice cannot respond to the scene in a timely fashion and the vehicle or cargo is a hazard, impedes the flow of traffic, or may not legally remain in its location in the opinion of the enforcement officer.

(d)(1) Except as provided in subdivision (2) of this subsection, the vehicle owner and the motor carrier, if any, shall be responsible to the law enforcement agency or towing operator for reasonable costs incurred solely in the removal and subsequent disposition of the vehicle or cargo under this section.

(2) When applicable, the provisions of 10 V.S.A. § 6615 (liability for release of hazardous materials) shall apply in lieu of this subsection.

(e) Except for intentionally inflicted damage or gross negligence, an enforcement officer or a person acting at the direction of an enforcement officer who removes from a highway a motor vehicle or cargo that is obstructing traffic or maintenance activities or creating a hazard to traffic shall not be liable for damage to the vehicle or cargo incurred during the removal.

(f) Any enforcement officer causing the removal of a motor vehicle under this section shall notify the Department as to the location and date of discovery of the vehicle, date of removal of the vehicle, name of the towing service removing the vehicle, and place of storage. The officer shall record and remove from the vehicle, if possible, any information ~~which~~ that might aid the Department in ascertaining the ownership of the vehicle and forward ~~it~~ the information to the Department. A motor vehicle towed under authority of this section may qualify as an abandoned motor vehicle under subchapter 7 of chapter 21 of this title.

(g)(1) Except as otherwise provided in subdivision (2) of this subsection, the operator of a vehicle involved in a crash who is required by law to stop the vehicle, or who elects to stop the vehicle, at the crash scene shall move and stop the vehicle at the nearest location where the vehicle will not impede traffic or jeopardize the safety of a person.

(2) The duty to move a vehicle under subdivision (1) of this subsection shall not apply when:

(A) the crash involved the death of or apparent injury to any person;

(B) the vehicle to be moved was transporting hazardous material;

(C) the vehicle cannot be operated under its own power without further damage to the vehicle or the highway; or

(D) the movement cannot be made without endangering other highway users.

(3) An operator required to move a vehicle under this subsection who fails to do so shall not be ticketed, assessed a civil penalty, or have points assessed against his or her driving record.

Sec. 26. 23 V.S.A. § 1128 is amended to read:

§ 1128. ACCIDENTS—DUTY TO STOP

(a) The operator of a motor vehicle who has caused or is involved in ~~an accident~~ a crash resulting in injury to any person other than the operator, or in damage to any property other than the vehicle then under his or her control, shall immediately stop and render any assistance reasonably necessary. Subsection 1102(g) of this title (stopping not to impede traffic or jeopardize safety; exceptions) governs the location where a person shall stop. The operator shall give his or her name, residence, license number, and the name of the owner of the motor vehicle to any person who is injured or whose property is damaged and to any enforcement officer. A person who violates this section shall be fined not more than \$2,000.00 or imprisoned for not more than two years, or both.

* * *

* * * Inspections; Mail Carrier Vehicles * * *

Sec. 27. 23 V.S.A. § 1222(e) is added to read:

(e) A vehicle used as a mail carrier under a contract with the U.S. Postal Service shall not fail inspection solely because, in converting the vehicle to be a right-hand drive vehicle, the right air bag in the front compartment has been disconnected or a nonfactory disconnect switch has been installed to disable the air bag.

* * * Inspections; Emissions Repairs * * *

Sec. 27a. MOTOR VEHICLE INSPECTIONS; EMISSIONS REPAIRS

(a) As of March 20, 2017, the Department of Motor Vehicles has required all motor vehicle inspection stations to conduct inspections through an Automated Vehicle Inspection Program (AVIP). AVIP replaced a paper-based inspection program, and it requires inspection data to be collected and stored electronically.

(b) Notwithstanding 10 V.S.A. § 567 and C.V.R. 14-050-022 (inspection of motor vehicles), any vehicle inspected in Vermont prior to May 1, 2018 that fails the on board diagnostic (OBD) system portion of the inspection, if applicable, and passes the safety-related portion shall pass inspection and

receive an inspection sticker, even if the vehicle has been subject to a prior inspection under AVIP and has previously failed the OBD system portion. In such cases, the inspection station shall provide the vehicle owner an inspection report indicating that the vehicle passed the safety portion of the inspection but failed the OBD portion, and that the owner has a 12-month period from the date of the inspection to make OBD system-related repairs.

* * * Motorboat Safety Equipment * * *

Sec. 28. 23 V.S.A. § 3306 is amended to read:

§ 3306. LIGHTS AND EQUIPMENT

(a) Every vessel shall carry and show the following lights when underway between sunset and sunrise:

* * *

(3) motorboats 26 feet or longer, a white light aft showing all around, visible for at least two miles, ~~a white light in the forepart of the boat showing all around,~~ and a light in the forepart of the boat showing red to port and green to starboard, visible at least one mile;

* * *

(g) Motorboats operated on waters that the U.S. Coast Guard has determined to be navigable waters of the United States and therefore subject to the jurisdiction of the United States must have lights and other safety equipment as required by U.S. Coast Guard rules and regulations.

Sec. 29. 23 V.S.A. § 3317 is amended to read:

§ 3317. PENALTIES

(a) A person who violates any of the following sections of this title shall be subject to a ~~fine~~ penalty of not more than \$50.00 for each violation:

* * *

- § 3306(a)-(d) and (g) lights and equipment
- § 3307a documented boat validation sticker
- § 3308 boat rental records
- § 3309 muffling device
- § 3311(c) distance requirements
- § 3311(d) underwater historic preserve area
- § 3311(e) overloaded vessel
- § 3311(h)-(i) authority of law enforcement officer

- § 3312 rules between vessels
- § 3313(b) failing to file report
- § 3315(a) water ski observer
- § 3315(c) improper ski towing
- § 3316 boat races

* * *

* * * Injury Prevention; Educational Resource * * *

Sec. 30. PREVENTING INJURY ON PROPERTY USED FOR RECREATION

(a) The Secretary of Transportation, in consultation with the Commissioners of Fish and Wildlife and of Forests, Parks and Recreation, shall:

(1) Develop an educational resource for property owners related to the prevention of injuries arising from recreational use of property. At a minimum, this resource shall:

(A) note that failure to mark appropriately a chain, wire, cable, or similar material strung across a known path of recreational users can result in severe injury or death; and

(B) recommend means and methods to mark appropriately such chains, wires, cables, or similar materials.

(2) Take appropriate steps to cause this resource to be disseminated to owners of property in the State.

(b) Nothing in this section is intended to modify the rights, duties, liabilities, or defenses available to any person under any other law. Neither the existence of, nor the fact that a property owner received or may have received or been aware of, the educational resource required to be developed under this section shall be discoverable or used in any civil, criminal, or administrative proceeding.

* * * Effective Dates; Retroactivity; Sunset; Applicability * * *

Sec. 31. EFFECTIVE DATES; RETROACTIVITY; SUNSET; APPLICABILITY

(a)(1) This section and Secs. 9 (licenses and permits to operate; refusals to issue), 15 (signs regarding length of vehicles), 16 (list of approved highways), 23 (motor vehicle purchase and use tax; extension of three-month period to reduce taxable cost), 24 (Vermont Strong license plates), 25–26 (incident clearance), 27 (inspections; mail carrier vehicles), 27a (inspections; emissions

repairs), 28–29 (motorboat safety equipment), and 30 (injury prevention; educational resource) shall take effect on passage.

(2) In Sec. 14, 23 V.S.A. § 1209a(b) (reinstatement under Total Abstinence Program) shall take effect on passage.

(3) Notwithstanding 1 V.S.A. § 214, Sec. 23 shall apply retroactively to October 26, 2016.

(4) 23 V.S.A. § 1222(e), added in Sec. 27 (inspections; mail carrier vehicles), shall be repealed on July 1, 2020.

(b) In Sec. 14, 23 V.S.A. § 1213(1)(2) (timing of random retests and elimination of GPS requirement) shall take effect 60 days after passage of this act.

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

(d) In Sec. 14, 23 V.S.A. § 1213(1)(2) (timing of random retests and elimination of GPS requirement) shall apply to all persons with ignition interlock restricted driver’s licenses as of the effective date of this provision and to persons whose underlying DUI offenses occurred prior to the effective date of this act, as well as to persons who obtain ignition interlock RDLs on or after the effective date of this provision.

(e) In Sec. 14, 23 V.S.A. § 1209a(b) (reinstatement under Total Abstinence Program) shall apply to persons whose periods of abstinence began prior to the effective date of this provision, as well as to persons who begin a period of abstinence on or after the effective date of this provision. In addition to hardship fee waivers authorized under 23 V.S.A. § 1209a(b), if a person’s application for reinstatement under the Program was denied prior to the effective date solely because of use of a drug in accordance with a valid prescription, and the person used the drug in a manner consistent with the prescription label, the Commissioner shall waive the fee for a subsequent application.

House Proposal of Amendment

J.R.S. 25

Joint resolution authorizing the Commissioner of Forests, Parks and Recreation to amend conservation easements related to the former Hancock Lands and adjacent Averill Inholdings in Essex County and to sell the Bertha Tract in Mendon and the Burch Tract in Killington to the Trust for Public Land.

The House proposes to the Senate that the resolution be amended by striking out the resolution in its entirety and inserting in lieu thereof the following:

Joint resolution authorizing the Commissioner of Forest, Parks, and Recreation to amend conservation easements related to the former Hancock Lands and adjacent Averill Inholdings in Essex County, to sell the Bertha Tract in Mendon and the Burch Tract in Killington to the Trust for Public Lands, to authorize the Commissioner to amend the Department of Forests, Parks and Recreation's existing lease with the Smuggler's Notch Management Company Ltd. and to authorize the Department to enter into a land exchange with the Smuggler's Notch Management Company Ltd.

Whereas, in 1996, the Department of Forests, Parks and Recreation acquired from the John Hancock Mutual Life Insurance Company a conservation easement for certain lands (known as the Hancock Lands) in Warren's Gore, and separately in 2005, the Department acquired a second conservation easement for inholdings within the former Hancock Lands in the town of Averill, and

Whereas, these easements envisioned that the covered lands could be subdivided and would be dedicated primarily to conservation purposes but commercial forestry management, including maple sugaring and syrup activities, were permissible, and

Whereas, the Department has now determined that the language in both easements is ambiguous concerning the construction of forestry management-related structures such as a sugarhouse, and

Whereas, upon consultation with the U.S. Forest Service, whose Forest Legacy Program facilitated the Department's acquisition of the easements, the Department has determined the easements should be amended with clarifying language subject to the approval of the owners of the parcels that resulted from the subdivision, and

Whereas, the Department owns the Bertha Tract in Mendon and the adjacent Burch Tract in Killington, both of which contain Green Mountain Club-held easements for segments of the Long Trail, and

Whereas, the Department proposes to sell these tracts to the Trust for Public Land in anticipation of their eventual transfer to the U.S. Forest Service for inclusion in the Green Mountain National Forest at which time the Green Mountain Club's easements would terminate and the covered Long Trail segments would be subject to federal protection, and

Whereas, in 1987, the Department entered into a lease with the Smuggler's Notch Management Company Ltd. (Smuggler's Notch), terminating in 2058 and renewable in ten-year increments, in which the Department leases 2,000 acres (the boundaries having last been amended in 2005) in the Mt. Mansfield State Forest to Smuggler's Notch for use as a ski resort, and

Whereas, under the terms of the lease, Smuggler's Notch's Madonna-Sterling base lodge (and all other buildings and structures on the leasehold property) have remained State property, and

Whereas, the 45-year-old lodge is in need of major improvements and the current lease makes it economically difficult for Smuggler's Notch to finance these improvements, and

Whereas, Smuggler's Notch proposes to assume ownership of the base lodge and two acres of surrounding land contained in the leasehold and in exchange Smuggler's Notch proposes: (i) to relinquish its leasehold interest in approximately 330 acres of land near the summit of Whiteface Mountain, and (ii) to convey a right-of-way to the State across a separate parcel of land that Smuggler's Notch owns in the Mt. Mansfield State Forest, and

Whereas, Smuggler's Notch would be responsible for property taxes for the base lodge and the two-acre parcel and would continue to make payments in lieu of base lodge rent, using the formula now in place, and

Whereas, Smuggler's Notch will work with the Department to update the lease, and

Whereas, pursuant to the authority granted in 10 V.S.A. § 2606(b), the Commissioner of Forests, Parks and Recreation believes that these land transactions are in the best interest of the State, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly authorizes the Commissioner of Forests, Parks and Recreation:

First: To amend certain terms and conditions of the conservation easements that the Department acquired with federal Forest Legacy funding: (i) on approximately 31,000 acres (known as the Hancock Lands) from the John Hancock Mutual Life Insurance Company on December 17, 1996; and (ii) on 210 acres (known as the Averill Inholdings) from the Trust for Public Land on December 7, 2005 in order to clarify the allowed uses for forestry-management-related structures and facilities, including their associated infrastructure and utilities.

Second: To sell to the Trust for Public Land two tracts, with the goal that the Trust will subsequently convey these tracts to the U.S. Forest Service for inclusion in the Green Mountain National Forest: (i) an approximately 113-acre tract in the town of Mendon (known as the Bertha Tract), and (ii) a 58-acre tract in the town of Killington (known as the Burch Tract), both of which the Department acquired from the Green Mountain Club on March 31, 2003 and that the sale shall be pursuant to the terms of a mutually satisfactory purchase and sales agreement. The selling price shall be based on the tracts'

fair market value that an appraisal shall determine. The sale of these tracts is contingent on support from the towns of Mendon and Killington. The proceeds of the sale shall be deposited in the Agency of Natural Resources Land Acquisition Fund to be used to acquire additional properties for Long Trail protection purposes.

Third: To amend the lease between the Department and Smuggler's Notch to:

(1) Revise the leasehold boundary to conform to the land exchange authorized in the fourth provision of this resolution.

(2) Include new lease provisions: (i) authorizing the Department to add new terms to reflect new laws, administrative rules, and policies should the leasehold be sold, including the sale of all or substantially all of the lessee's assets; and (ii) clarifying the various types of revenue generated within the ski leasehold area that must be incorporated into the ski lease fee payment but not changing the underlying formula.

(3) Update the indemnification and liability language to meet current State requirements.

(4) Clarify public access rights to the leasehold land, including Smuggler's Notch's right to restrict access for safety reasons.

Fourth: To enter into a land exchange with Smuggler's Notch that provides for:

(1) The Department to convey to Smuggler's Notch the base lodge and approximately two acres of surrounding land located within the Smuggler's Notch leasehold.

(2) Smuggler's Notch's relinquishing to the State 330 acres more or less of land within the leasehold located below the summit of Whiteface Mountain.

(3) Smuggler's Notch's conveying to the Department, for management purposes in the Mt. Mansfield State Forest, a right-of-way, for a route to be mutually agreed upon, through a separate parcel of land that Smuggler's Notch owns on the west side of Route 108.

(4) That the proposed exchanges listed in subdivisions (1)–(3) of this provision of the resolution are contingent on the approval of the Town of Cambridge and that Smuggler's Notch's leasehold interest in the 330 more or less acres to be removed from the lease be equal or greater than the appraised value of the base lodge and two acres of surrounding land.

(5) That Smuggler's Notch, upon the conveyance of the base lodge and the surrounding approximately two acres to its ownership, shall continue to pay the Department 2.5 percent of all revenue generated at the base lodge for

as long as the lease shall remain in effect, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Commissioner of Forests, Parks and Recreation.

Report of Committee of Conference

H. 42.

An act relating to appointing municipal clerks and treasurers and to municipal audit penalties.

To the Senate and House of Representatives:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House Bill entitled:

H.42. An act relating to appointing municipal clerks and treasurers and to municipal audit penalties.

Respectfully reports that it has met and considered the same and recommends that the Senate recede from its proposal of amendment and that the bill be further amended by striking out Sec. 4, 24 V.S.A. § 1686 (penalty) in its entirety and inserting in lieu thereof the following:

Sec. 4. 24 V.S.A. § 1686 is amended to read:

§ 1686. PENALTY

(a) At any time in their discretion, town auditors may, and if requested by the selectboard, shall, examine and adjust the accounts of any town officer authorized by law to receive or disburse money belonging to the town.

(b) If the town has voted to eliminate the office of auditor, the public accountant employed by the selectboard shall perform the duties of the town auditors under subsection (a) of this section upon request of the selectboard.

(c)(1) Any If, after at least five business days following his or her receipt by certified mail of a written request by the auditors or public accountant that is approved and signed by the legislative body, a town officer who willfully refuses or neglects to submit his or her books, accounts, vouchers, or tax bills to the auditors or the public accountant upon request, or to furnish all necessary information in relation thereto, that town officer shall be ineligible to reelection for the year ensuing and be subject to the penalties otherwise prescribed by law.

(2) A town officer who violates subdivision (1) of this subsection (c) shall be personally liable to the town for a civil penalty in the amount of \$100.00 per day until he or she submits or furnishes the requested materials or information. A town may bring an action in the Civil Division of the Superior

Court to enforce this subdivision.

(d) As used in this section, the term “town officer” shall not include an officer subject to the provisions of 16 V.S.A. § 323.

*BRIAN P. COLLAMORE
CLAIRE D. AYER
CHRISTOPHER A. PEARSON*

Committee on the part of the Senate

*MARCIA L. GARDNER
RONALD E. HUBERT
PATTI J. LEWIS*

Committee on the part of the House

Senate Resolution For Action

S.R. 9.

Senate resolution relating to the appointment of Robin Lunge to the Green Mountain Care Board.

PENDING QUESTION: Shall the Senate adopt the resolution?

(For text of resolution, see Senate Journal for Wednesday, April 26, 2017, page 687.)

NOTICE CALENDAR

Second Reading

Favorable

H. 327.

An act relating to the charter of the Northeast Kingdom Solid Waste Management District.

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

(Committee vote: 5-0-0)

(No House amendments.)

H. 356.

An act relating to approval of amendments to the charter of the Town of Berlin.

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

(Committee vote: 5-0-0)

(For House amendments, see House Journal of April 12, 2017, page 651.)

H. 520.

An act relating to approval of amendments to the charter of the Town of Stowe.

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

(Committee vote: 5-0-0)

(No House amendments.)

Favorable with Proposal of Amendment

H. 512.

An act relating to the procedure for conducting recounts.

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

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

* * * Primary and General Election Recounts * * *

Sec. 1. 17 V.S.A. chapter 51, subchapter 9 is amended to read:

Subchapter 9. Recounts and Contest of Elections

§ 2601. RECOUNTS RECOUNT THRESHOLD

(a)(1) In an election for statewide office, county office, or State Senator, if the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is ~~less than~~ two percent or less of the total votes cast for all the candidates for an office, divided by the number of persons to be elected, that losing candidate shall have the right to have the votes for that office recounted.

(b)(2) In an election for ~~all other offices~~ State Representative, if the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is ~~less than~~ five percent or less of the total votes cast for all the candidates for an office, divided by the number of persons to be elected, that losing candidate shall have the right to have the votes for that office recounted.

(b) In the case of a recount for a local election, the threshold and procedures for conducting the recount shall be as provided in chapter 55,

subchapter 3 of this title.

§ 2602. PETITIONS FOR RECOUNTS; SETTING DATE OF RECOUNT

~~(a) In the case of recounts for local elections and recounts for the office of justice of the peace, the procedures for conducting the recount shall be as provided in subchapter 3 of chapter 55 of this title. [Repealed.]~~

(b) In the case of recounts ~~other than specified~~ described in subsection 2601(a) of this ~~section~~ subchapter, the following procedure shall apply.

(1) A petition for a recount shall be filed within seven calendar days after the election.

(2) The petition shall be filed with:

(A) the Civil Division of the Superior Court, Washington County, in the case of candidates for State or congressional office, or for a presidential election; ~~the petition shall be filed with or~~

(B) the Superior Court in any county in which votes were cast for the office to be recounted, in the case of any other office.

(3) The petition shall be supported, if possible, by a certified copy of the certificate of election prepared by the canvassing committee, verifying the total number of votes cast and the number of votes cast for each candidate.

(c)(1) The Superior Court shall:

(A) set the date of the recount to be:

(i) five business days after the Court receives the petition ~~for~~, in the case of a primary recount; or

(ii) 10 business days after the Court receives the petition, in the case of a general election recount; and shall

(B) notify all candidates of ~~that~~ the recount date no later than the next business day after the petition is received.

(2)(A) The Superior Court shall forward a copy of the petition to the county clerk.

(B) The Court shall order the town clerk or clerks having custody of the ballots to be recounted or their designees to transport ~~them~~ the ballots and a copy of the entrance checklist from the election to be recounted to the county clerks of their respective counties before the day set for the recount.

(C) ~~County clerks~~ The county clerk shall store all ballots, still in their sealed containers, ~~in their vaults~~ his or her vault until the day of the recount.

(d)-(h) [Repealed.]

~~(i) The Secretary of State shall bear the costs of recounts covered under this chapter. [Repealed.]~~

§ 2602a. APPOINTMENT OF RECOUNT COMMITTEE; ~~SETTING DATE OF RECOUNT~~

~~(a)(1) Upon receipt of a petition, the county clerk shall notify the chairs of the relevant county political committees that a petition has been filed requesting a recount and advising them to submit immediately a list of nominees for individuals to serve on a recount committee.~~

~~(2) In the case of a recount in a primary election, the county clerk shall notify all candidates for the office which that is the subject of the recount, advising them to each submit immediately a list of a minimum of 10 nominees for individuals to serve on a recount committee.~~

~~(3) If a candidate for an office which is the subject of a recount is from a party which does not have a county committee, the county clerk shall send a copy of the notice to the State committee of the party advising them to submit immediately a list of nominees for individuals to serve on a recount committee.~~

~~(4) If a candidate for an office which is the subject of a recount is independent, the county clerk shall send that candidate a copy of the notice and request him or her to submit immediately a similar list of nominees for individuals to serve on a recount committee.~~

~~(5)(2)(A) If a list of nominees is not delivered to the county clerk within two business days, the clerk shall notify the appropriate candidates that they have 24 hours to submit lists of nominees for individuals to serve on the recount committee.~~

~~(B) If the petitioning candidate fails to submit a complete list of nominees by this deadline, the recount shall not move forward.~~

~~(C) If any other candidate fails to submit a complete list of nominees, the county clerk shall request additional nominees from the other candidates.~~

~~(b)(1) The Superior Court shall make a minimum of 12 appointments to the recount committee from among those nominated under this section, with the number of appointments based on the number of votes to be recounted and a goal of completing the recount within one day.~~

~~(2) In making these appointments, the court shall appoint an equal number of persons from each party and from those persons representing an independent each candidate, to the extent practicable.~~

§ 2602b. ASSIGNMENT OF DUTIES; RECOUNT MATERIALS

(a)(1) ~~The county clerk, with the support of the Secretary of State, shall supervise the recount and may appoint a sufficient number of impartial assistants to perform appropriate tasks which have not been assigned to recount committee members. The county clerk shall recruit town clerks or their designees to serve as impartial assistants to the county clerk for operating the vote tabulators, and shall consult with the Secretary of State to identify any vote tabulators to be used.~~

(2) ~~The county clerk shall store all ballots, still in their sealed containers, in his or her vault until the day of the recount may appoint a sufficient number of additional impartial assistants to perform tasks that have not been assigned to recount committee members.~~

(3) ~~On each day of the recount, the town clerk of any town subject to the recount shall be available to the county clerk in person or by telephone to answer any questions the county clerk may have regarding that town's election.~~

(b)(1) ~~The county clerk shall assign committee members to the following teams of at least four persons, consisting of one caller and one observer, representing different candidates, and one tally person and one double-check person, representing different candidates:~~

(A) Counting teams comprising at least four persons each, consisting of an equal number of persons representing each candidate, to the extent possible;

(B) One vote tabulator team, comprising two persons, each of whom represents a different candidate; and

(C) One clerk observer team, comprising two persons, one of whom is from the list of the petitioning candidate and one of whom, if possible, is from the list of the winning candidate who received the lowest number of votes.

~~(2) Any additional team members shall be additional observers and double-check persons, who shall be assigned to ensure that each candidate has one person assigned as either a caller or an observer and one person assigned as either a tally person or a double-check person. One team shall be designated as the clerk observer team, which shall perform only the functions established under this subchapter for that team remain unassigned and shall be used as necessary on the day of the recount.~~

~~(c) The recount committee shall use~~ Secretary of State shall provide to the recount committee:

(1) fresh seals, manila tags, tally sheets, double-check sheets, summary sheets for each polling place town, master lists for the entire election to be

recounted, and other appropriate material provided deemed appropriate by the Secretary of State; and

(2) the official return of votes for each town subject to the recount.

§ 2602c. PREPARATION FOR RECOUNT; GENERAL RULES

(a) Recount area; preserving order.

(1)(A) The county clerk shall designate an area within which the recount shall take place.

(B) Persons who are not committee members or who have not been designated as impartial assistants by the county clerk shall be permitted to view the recount in progress, but shall not be permitted within the recount area.

(2) The county clerk shall preserve order. If a person, after notice, is persistently disorderly and refuses to withdraw from the premises, the county clerk may cause the person to be removed from the premises.

(b) Preliminary requirements. Before the recount begins, ~~the~~ and any containers are opened:

(1) Explaining procedures. The county clerk shall explain the recount procedures ~~which~~ that are to be followed and shall answer questions relating to such procedures. ~~The county clerk shall use volunteer town clerks to operate and instruct on the use of vote tabulators.~~

(2) Blank ballots; vote tabulator test.

(A) The county clerk shall obtain blank ballots from the town clerks of the towns subject to the recount. These blank ballots shall be used as test ballots to perform the vote tabulator test described in this subdivision (2).

(B)(i) The vote tabulator team shall perform a test of the vote tabulators that will be used by marking and feeding into each tabulator a minimum of 10 test ballots. The test ballots shall be marked with various votes for each candidate for the office subject to the recount.

(ii) If more than one memory card is to be used, such a test shall be performed for each memory card.

(C) If a vote tabulator does not tabulate these votes accurately, it shall not be used.

(D) Once the test is completed, these ballots and the tabulator tape containing the results of the test shall be sealed in an envelope that shall be dated and marked "TEST BALLOTS—DO NOT COUNT." This envelope shall then be kept separate from the rest of the containers.

~~(b)~~(c) Tables. Each team shall have a separate table and the county clerk shall have a separate table, and all of these tables shall be spaced apart.

(d) Separating containers, polling places, and towns. Each recount team shall:

(1) recount the contents of one container before opening another container at its table, ~~shall~~;

(2) recount the contents of all the containers relating to one polling place before moving to those of another polling place, ~~and shall~~

(3) complete the recount for one town before moving to material relating to another town.

~~(e)~~(e) Recording containers. For each ~~polling place town~~, the number of containers shall be counted and recorded on the ~~master list~~ summary sheet for that town.

~~(d)~~(f) Inspecting containers and seals.

(1) Containers. Before opening, each container shall be inspected, and if no tag is present, replacement manila tags shall be affixed, specifying date of election and name of town and polling place.

(2) Seals.

(A) ~~Likewise, each~~ Each seal shall be ~~examined~~ inspected to see if it is intact, and the county clerk shall attach to any ~~bag container~~ with a defective seal a tag stating that the seal was defective and containing the information ~~which that~~ was contained on the defective seal.

(B) If a seal number does not match the seal number reported by the town clerk on the official return of votes, the county clerk shall contact the town clerk to request an explanation for that difference. The county clerk shall record any explanation on the summary sheet for that town.

~~(e)~~(g) Uncounted containers. Uncounted containers shall be kept in one part of the room and moved to the other side as they are counted; ~~each team shall have a separate table and the county clerk shall have a separate table, all of which tables shall be spaced apart.~~

~~(f)~~(h) Checklist container. If there is more than one container from a polling place, the county clerk shall open first the container ~~which that~~ is identified as containing the checklist, if applicable.

(i) Opening containers. ~~Upon opening the first container in the presence of the clerk observer team, the~~ The county clerk shall empty the contents of each container onto the clerk's his or her table in the presence of the clerk observer team.

(j) Materials not to be distributed. The county clerk shall ensure that teams are not given, and the teams shall not count:

(1) ballots marked defective or contained in a defective ballot envelope;

(2) unused ballots, ~~early or absentee ballots which arrived after the close of polls,~~ that were not distributed to voters; or

(3) ballots ~~spoiled returned~~ by voters and ~~turned in by voters requesting fresh~~ who requested replacement ballots, or ballots contained in a replaced ballot envelope.

(k) Recording defective ballots. In the presence of the clerk observer team, the county clerk shall mark the number of defective ballots from the official return of votes for each town on the summary sheet for that town.

§ 2602d. REVIEW OF OFFICIAL RETURN OF VOTES; EXAMINATION OF CHECKLISTS CHECKLIST

(a)(1) The county clerk shall review the official return of votes for each town, record on the summary sheet for each town the number of ballots counted and the number of voters checked off the checklist on the town's return, and if those two numbers are the same, the checklist for that town shall not be examined.

(2) If those two numbers for a town are not the same, the checklist may be examined in accordance with the following provisions of this section, if requested by one of the candidates subject to the recount.

(b) The checklist from the first ~~bag~~ container shall be assigned to a team. ~~The caller and observer~~ Two persons who represent different candidates, each acting independently, shall examine the checklist and determine how many voters voted at the polling place, repeating the process until they agree on a number or until they agree to disagree on a number.

(b)(c) Then the checklist shall be examined by ~~the tally person and the double-check person~~ the remaining members of the team, repeating the process until they agree on a number or they agree to disagree on the number.

(e)(d) The results obtained from the two subgroups will be compared and if they do not match, the process shall be repeated until there is agreement among all the members of the team or until team members agree to disagree.

(d)(e) The number finally determined by a majority of team members shall be submitted to the county clerk in the presence of the clerk observer team, together with an indication of the nature and extent of ~~the~~ any disagreement.

(f) ~~If one or more team members do not agree with the number submitted,~~ The county clerk shall note on the ~~master list~~ the fact summary sheet for

the town the number finally determined, together with a note indicating that the number of people appearing as having voted on a specified the checklist was subject to dispute, if one or more team members did not agree with the number submitted.

§ 2602e. SORTING BALLOTS; BALLOT REVIEW; RECOUNT OF
REMOVED BALLOTS BY HAND

(a) Sorting ballots.

(1) While the checklist is being examined, if applicable under subsection 2602d of this subchapter, after emptying a container onto his or her table, the county clerk shall separate ballots from the container into a number of batches equal to the number of counting teams, with each batch being of approximately equal size.

(2) Each counting team shall take a batch of ballots from the county clerk's table to the counting team's table.

(3) Two persons who represent different candidates on a counting team shall sort that batch into stacks of 50 ballots, and the remaining members of the team shall recount each stack to ensure that there are 50 ballots in it.

(4)(A) The counting teams shall combine any ballots not placed into a stack of 50, and one of those counting teams shall separate those combined ballots into stacks of 50 and recount them in accordance with subdivision (3) of this subsection.

(B) For any final stack that contains fewer than 50 ballots, the county clerk shall affix to the top of that stack a note indicating how many ballots are contained in it.

(b) Ballot review and removal.

(1)(A) For each stack, a counting team shall review each ballot within the stack and remove from that stack each ballot upon which, for the office in question, the voter recorded his or her vote or votes in that race in any manner other than completely filling in the oval to the right of a preprinted candidate's name.

(B) Each counting team shall also remove any plain paper or damaged ballots.

(2) A ballot shall be removed only if at least two members of the counting team agree to its removal.

(3) A ballot without markings for the office in question shall not be removed.

(4) A ballot that is not removed upon this first review shall not be

reviewed again.

(c) Delivery of remaining ballots.

(1) Each counting team shall then attach to that stack a note indicating the number of ballots remaining in the stack.

(2) The county clerk shall deliver those remaining ballots to the vote tabulator team.

(d) Hand count of removed ballots; questionable votes.

(1) Each counting team shall then separate the removed ballots into stacks of 50 in accordance with the process set forth in subdivision (a)(3) of this section.

(2) The counting team shall then hand count the votes for the office in question on the removed ballots, and mark the results on a tally sheet for each stack of 50 removed ballots and any remaining stack with less than 50.

(3)(A) This hand count shall be in accordance with the rules for counting ballots set forth in section 2587 of this chapter, except that if two persons on the counting team do not agree on how to count a vote, the ballot shall be set aside as containing a questionable vote.

(B)(i) For any questionable vote, a copy of the ballot shall be made, and this copy shall be clearly marked on its face identifying it as a copy. Once the recount of a container is completed, any such copies shall be placed on the top of the other ballots and shall remain together with the other ballots.

(ii) Each original ballot with a questionable vote shall be attached to a note that identifies it by town, county, polling place, and container seal number. The originals of these ballots with questionable votes shall be clipped to the summary sheet for that town, along with a copy of the official return of votes, and submitted to the court for a final decision.

(iii) The county clerk shall record the number of ballots containing questionable votes to be submitted to the court on the summary sheet for the town.

(C) At the end of the hand count for a container, two persons from each counting team who represent different candidates shall deliver any tally sheets from their table to the county clerk in the presence of the clerk observer team.

(D) The county clerk, in the presence of the clerk observer team, shall record the totals from each tally sheet onto the summary sheet for the town.

(e) This process shall be completed for as many containers as there are for

each town.

§ 2602f. RECOUNT OF REMAINING BALLOTS BY VOTE TABULATOR

(a) The vote tabulator team shall operate any vote tabulator used in the recount, with the assistance of the recruited town clerks or designees.

(b) The vote tabulator memory card or cards shall be programmed to read only the votes for the election that is the subject of the recount.

(c)(1) ~~Vote tabulator-readable~~ At the same time as any removed ballots are being hand counted, the vote tabulator team shall take any ballots from each container ~~shall be fed~~ delivered to them, and feed them through a vote tabulator by one team until all vote tabulator-readable ballots from the container have been entered. For ballots unable to be read by a vote tabulator, such as damaged or plain paper ballots, a second team shall collect these ballots from the pile and transfer the voter's choices on those ballots to blank ballots provided by the Secretary of State. After all of the vote tabulator-readable ballots have been fed through the vote tabulator, the first team shall feed through the vote tabulator any transfer ballots created by the second team.

(2) The recount teams shall switch roles for each subsequent container of ballots of a polling place that are to be fed through the vote tabulator, if there is more than one container per polling place. The vote tabulator team shall attempt to feed ballots into the vote tabulator in the same direction.

(3)(A) If the tabulator refuses a ballot, the vote tabulator team shall announce that occurrence and whether the ballot was counted, and may override that refusal.

(B) If the tabulator continues to refuse the ballot, the vote tabulator team shall announce that occurrence and return it to a counting team for hand counting.

(4) This process shall be used until all ballots from a polling place container have been tabulated by a vote tabulator or otherwise returned to a counting team for hand counting.

(b)(d)(1) This process shall be repeated until all ballots from a town have been fed through a vote tabulator.

(2) If there is more than one container for a town, the tabulator tape shall not be printed until ballots from all containers for that town have been tabulated.

(e)(1) After all ballots from a polling place town have been tabulated by a vote tabulator, a ~~recount team~~ the vote tabulator team shall print the tabulator tape containing the unofficial results and document those results on a tally sheet for that town, and deliver that tabulator tape to the county clerk in the

presence of the clerk observer team.

~~(2) The county clerk shall then record the totals from the tabulator tape onto the summary sheet for the town in the same manner that he or she recorded the individual tally sheet totals from the hand-counted ballots. Another recount team shall then open the tabulator's ballot box and remove all ballots. The ballots shall then be divided among the recount teams to be examined to find write-in names and markings of voter intent that were not vote tabulator-readable as outlined in the Secretary of State's vote tabulator guide and most recent elections procedures manual. A caller, tally person, and double-check person shall be used to examine the ballots removed from the ballot box. If the caller and the observer or observers do not agree on how a ballot should be counted, the entire team shall review the ballot and if all members agree, it shall be counted that way.~~

~~(c) If one person does not agree, that ballot shall be set aside as a questioned ballot and a copy shall be made, which copy shall be clearly marked on its face identifying it as a copy. Any copies shall be placed on the top of the other ballots and shall remain together with the other ballots. Each original ballot deemed questionable shall be attached to a note which identifies it by town, county, polling place, and bag seal number. The originals of these questionable ballots shall be clipped to the summary sheet for that polling place and returned to the court for a final decision.~~

~~(d) After the court has rendered a final decision on a given questionable ballot, it shall be returned to the county clerk who shall keep it in a sealed container for a period of two years.~~

~~(e) Write-in votes for preprinted candidates shall be counted as votes for that candidate.~~

~~(f) If the tally persons do not agree on the number of votes for a candidate on ballots not able to be read by the vote tabulator, the ballots shall be retallied until they do agree. Then the team shall notify the clerk that it has completed its recount.~~

§ 2602h. COMPLETING THE TALLY

(a) The county clerk shall return all ballots to their container, seal the container, record the seal number on the summary sheet, and write "recounted" and specify the date of the recount on the tag.

(b) After In the presence of the clerk observer team, the county clerk shall add together the hand count and vote tabulator totals for a polling place have been listed each town, as recorded on the tally sheets and vote tabulator tape submitted to him or her, the county clerk shall add them up in the presence of the clerk observer team, and record those totals on the summary sheet for that

town, and affix his or her seal to that summary sheet.

(c)(1) The county clerk shall compare the number of ballots recounted for that town with the number of voters who voted at that town according to the checklist examination, as applicable under section 2602d of this subchapter and recorded by the county clerk on the summary sheet in accordance with that section.

(2) If these numbers differ, the county clerk shall note the amount of the difference on the summary sheets for that polling place town.

(d) If there is more than one town subject to the recount:

(1) this process shall be repeated for each town; and

(2) once all towns have been recounted, the county clerk shall add together the totals from each town and record the total for all towns on a master summary sheet and affix his or her seal to that sheet.

~~(b) The county clerk shall return all ballots to the container, seal it, record the seal number on the summary sheet, write "recounted" and specify the date of the recount on the tag, and move it to the other side of the room, making sure that there is never more than one bag open at any one time.~~

~~(c) This procedure shall be repeated for each container, until the results from a polling place have been recounted, and then it shall be repeated until the results from all polling places in a town have been recounted, and then until the results from all towns have been recounted.~~

~~(d) The county clerk shall add the totals on each summary sheet, affix the clerk's seal, and~~

(e) The county clerk shall send the summary sheets for all polling places towns together with the any master list summary sheet, the ballots marked defective or contained in a defective ballot envelope, and any questionable original ballots containing questionable votes to the court by certified mail, return and obtain a receipt requested, for that delivery or shall certify the results to the judge.

§ 2602i. COSTS

(a) Recount committee members and assistants designated by the county clerk shall be paid by the State at the same per diem and mileage rates and according to the same procedures by which jurors are paid.

(b)(1) These and other necessary expenses, as approved by the court, shall

be paid by the State through the Court Administrator's Office.

(2) The Secretary of State shall bear the costs of recounts conducted under this subchapter and shall reimburse the Court Administrator's Office.

§ 2602j. OTHER RULES FOR CONDUCTING THE RECOUNT COURT HEARING AND JUDGMENT

(a) ~~The county clerk shall preserve order. If a person, after notice, is persistently disorderly and refuses to withdraw from the premises, the county clerk may cause the person to be removed from the premises. [Repealed.]~~

(b) ~~The county clerk shall designate an area within which the recount shall take place. Persons who are not committee members shall be permitted to view a recount in progress, but persons not authorized by the county clerk shall not be permitted within the area designated by the county clerk. [Repealed.]~~

(c) Candidates and their attorneys shall be given the opportunity to present evidence to the court relating to the conduct of the recount, how to count questionable votes, and the marking of any ballot as defective in accordance with section 2547 of this title.

(d) On the day of the hearing, the town clerk of any town subject to the recount shall be available in person or by telephone to answer any questions regarding the town's election.

(e) If the court determines that any violations of recount procedures have occurred and that they may have affected the outcome of the recount, a new recount shall be ordered.

(f) After such hearings or arguments as may be indicated under the circumstances and after it has made a final decision on any questionable votes, the Superior Court, within five working days, shall:

(1) issue a judgment, which shall supersede any certificate of election previously issued;

(2) send a certified copy of the judgment to the Secretary of State; and shall

(3) return to the county clerk any ballots containing questionable ballots which votes and defective ballots that had been forwarded to the court.

§ 2602k. AFTER THE RECOUNT TIES

(a) If the recount results in a tie, the court shall order a recessed runoff election to be held, within three weeks of the recount, on a date set by the court.

(b) The only candidates who shall appear on the ballot at the recessed

runoff election shall be those who tied in the previous election.

(c) ~~The recessed~~ runoff election shall be considered a separate election for the purpose of voter registration under chapter 43 of this title.

(d) If the recount confirms a tie as to any public question, ~~no recessed a~~ runoff election shall not be held, and the question shall be certified not to have passed.

(e) Warnings for a ~~recessed~~ runoff election shall be posted as required by subchapter 5 of this chapter, except that the warnings shall be posted not less than 10 days before the ~~recessed~~ runoff election.

(f) The conduct of a ~~recessed~~ runoff election shall be as provided in this chapter for general elections.

~~(b) After the recount, the county clerk shall seal the ballots and other materials back in the containers and store them in the county clerk's vault until returned to the towns. The county clerk shall return all ballots to the respective town clerks after issuance of the court's judgment, together with a copy of the judgment. The respective town clerks or their designees shall transport the ballots to the towns from which they came.~~

~~(c) The court shall send a certified copy of the judgment to the Secretary of State.~~

§ 2602m. STORAGE AND RETURN OF ELECTION MATERIALS

(a)(1) After the recount, the county clerk shall store the sealed containers and any other recount materials in the county clerk's vault until returned to the towns.

(2) The county clerk shall release all containers to the respective town clerks after issuance of the court's judgment, together with a copy of the judgment.

(3) The respective town clerks or their designees shall transport the containers to the towns from which they came.

(b) Upon receiving from the court any ballots containing questionable votes and defective ballots, the county clerk shall keep them in a sealed container for a period of two years.

* * *

* * * Definitions * * *

Sec. 2. 17 V.S.A. § 2103 is amended to read:

§ 2103. DEFINITIONS

As used in this title, unless the context or a specific definition requires a

different reading:

* * *

(10) “County officer” means judge of Probate, assistant judge of the Superior Court, State’s Attorney, sheriff, and high bailiff, ~~and justice of the peace.~~

* * *

(18)(A) “Local election” means any election ~~which~~ that deals with the selection of persons to fill public office or the settling of public questions solely within a single municipality.

(B) “Local election” also means an election to settle a public question in several municipalities, in which the municipalities must unanimously concur if the question is to be approved.

(C) The election of a ~~representative~~ Representative to the General Assembly is not a “local election.”

* * *

* * * Registration of Voters * * *

Sec. 3. 17 V.S.A. § 2141 is amended to read:

§ 2141. POSTING OF CHECKLIST

(a) At least 30 days before any local, primary, or general election, the town clerk shall cause copies of the most recent checklist of the persons qualified registered to vote to be posted in two or more public places in the municipality in addition to being posted at the town clerk’s office; however, in a municipality having a population of less than 5,000 qualified registered voters, only one checklist in addition to the one posted in the town clerk’s office need be posted.

* * *

Sec. 4. 17 V.S.A. § 2154 is amended to read:

§ 2154. STATEWIDE VOTER CHECKLIST

* * *

(b) A registered voter’s month and day of birth, driver’s license or nondriver identification number, e-mail address, and the last four digits of ~~the applicant’s~~ his or her Social Security number shall be kept confidential and are exempt from public copying and inspection under the Public Records Act.

(c) Any person wishing to obtain a copy of all of the statewide voter checklist must swear or affirm, under penalty of perjury pursuant to 13 V.S.A.

chapter 65, that the person will not use the checklist for commercial purposes. The affirmation shall be filed with the Secretary of State.

* * *

~~(e)~~(d) No An elections official ~~may~~ shall not access the portion of the statewide voter checklist that is exempt from public inspection pursuant to 1 V.S.A. § 317(c)(31), except for elections purposes.

Sec. 5. 1 V.S.A. § 317(c) is amended to read:

(c) The following public records are exempt from public inspection and copying:

* * *

(31) Records of a registered voter's month and day of birth, ~~motor vehicle operator's~~ driver's license or nondriver identification number, e-mail address, and the last four digits of ~~the applicant's~~ his or her Social Security number contained in an application to the statewide voter checklist or the statewide voter checklist established under 17 V.S.A. § 2154 or the failure to register to vote under 17 V.S.A. § 2145a.

* * *

* * * Political Parties * * *

Sec. 6. 17 V.S.A. § 2303 is amended to read:

§ 2303. TOWN CHAIR TO GIVE NOTICE

(a) The town chair or, if unavailable or if the records of the Secretary of State show there is no chair, any three voters of the town shall arrange to hold a caucus on the day designated by the State chair, in some public place within the town, and shall set the hour of the caucus.

(b)(1) At least five days before the day of the caucus, the town chair shall post a notice of the date, purpose, time, and place of the caucus in the town clerk's office and in at least one other public place in town.

(2) In towns of 3,000 or more population, he or she shall also publish the notice:

(A) in a newspaper having general circulation in the town; or

(B) in a nonpartisan electronic news media website that specializes in news of the State or the community.

(c) If three voters arrange to call the caucus, the voters shall designate one of their number person among them to perform the duties prescribed ~~above~~ in subsection (b) of this section for the town chair.

* * * Primary Elections * * *

Sec. 7. 17 V.S.A. § 2353 is amended to read:

§ 2353. PETITIONS TO PLACE NAMES ON BALLOT

(a) The name of any person shall be printed upon the primary ballot as a candidate for nomination by any major political party for any office indicated, if petitions containing the requisite number of signatures made by ~~legal~~ registered voters, in substantially the following form, are filed with the proper official, together with the person's written consent to having his or her name printed on the ballot:

I join in a petition to place on the primary ballot of the party the name of, whose residence is in the (city), (town) of in the county of, for the office of to be voted for on Tuesday, the day of August, 20; and I certify that I am at the present time a registered voter and am qualified to vote for a candidate for this office.

(b)(1) A person's name shall not be listed as a candidate on the primary ballot of more than one party in the same election.

(2) A person shall file a separate petition for each office for which he or she seeks to be a candidate.

Sec. 8. 17 V.S.A. § 2354 is amended to read:

§ 2354. SIGNING PETITIONS

(a) Any number of voters may sign the same petition.

(b)(1) A voter's signature shall not be valid unless at the time he or she signs, the voter is registered and qualified to vote for the candidate whose petition he or she signs.

(2) Each voter shall indicate his or her town of residence next to his or her signature.

(c) The signature of a voter on a candidate's petition does not necessarily indicate that the voter supports the candidate. A voter shall not sign more than one petition for the same office, unless more than one nomination is to be made, in which case he or she may sign as many petitions as there are nominations to be made for the same office.

(d) A petition shall contain the name of only one candidate.

Sec. 9. 17 V.S.A. § 2356 is amended to read:

§ 2356. TIME FOR FILING PETITIONS AND STATEMENTS OF NOMINATION

(a) Primary petitions for major party candidates ~~and statements of nomination for minor party candidates~~ shall be filed ~~no sooner~~ not earlier than the fourth Monday in April and not later than 5:00 p.m. on the fourth Thursday after the first Monday in May preceding the primary election prescribed by section 2351 of this chapter, and not later than 5:00 p.m. of the 62nd day prior to the day of a special primary election.

(b) A petition or statement of nomination shall apply only to the election cycle in which the petition or statement of nomination is filed.

Sec. 10. 17 V.S.A. § 2361 is amended to read:

§ 2361. CONSENT OF CANDIDATE

(a) A candidate for whom petitions containing sufficient valid signatures have been filed shall file with the official with whom the petitions were filed a consent to the printing of the candidate's name on the ballot. ~~The secretary of state~~ Secretary of State shall prepare and furnish forms for this purpose.

(b)(1) The consent shall set forth the name of the candidate, as the candidate wishes to have it printed on the ballot, the candidate's town of residence, and correct mailing address.

(2) If a candidate wishes to use a nickname, the format on the ballot shall be the candidate's first name, the nickname set off in quotations, and the candidate's last name.

(3) Professional titles such as "Dr.," "Esq.," or "CPA" shall not be used as part of a candidate's name on the ballot.

(c) The consent shall be filed on or before the day petitions are due. Unless a consent is filed, the candidate's name shall not be printed on the primary ballot.

Sec. 11. 17 V.S.A. § 2362 is amended to read:

§ 2362. PRIMARY BALLOTS

(a) ~~The ballots shall be prepared~~ A separate ballot for each major political party shall be printed and furnished to the towns by the Secretary of State and shall contain the names of all candidates for nomination by that party at the primary. Ballots shall be printed on index stock and configured to be readable by vote tabulators. ~~A separate ballot for each major political party~~ Ballots shall be printed in substantially the following form:

OFFICIAL VERMONT PRIMARY ELECTION BALLOT

VOTE ON ONE PARTY BALLOT ONLY AND PLACE IN BALLOT

BOX OR VOTE TABULATOR

ALL OTHER PARTY BALLOTS MUST BE PLACED IN UNVOTED
BALLOT BOX

[MAJOR POLITICAL PARTY NAME]

Instructions to voters: Use black pen or pencil to fill in the oval. To vote for a candidate person whose name is printed on the ballot, fill in the oval at to the right of that person's name the name of that person. To vote for a candidate person whose name is not printed on the ballot, write the person's or stick his or her name on in the blank line in the appropriate block and space provided and fill in the oval to the right of that blank line the write-in space. Do not vote for more candidates than the "Vote for Not More Than" number for an office. If you make a mistake, tear, or deface the ballot, return it to an election official and obtain another ballot. Do not erase. When there are two or more persons to be elected to one office, you may vote for any number of candidates up to and including the maximum number.

* * *

Sec. 12. 17 V.S.A. § 2363 is amended to read:

§ 2363. ~~SEPARATE PARTY BALLOTS~~ VOTER'S CHOICE OF PARTY

(a) ~~The names of all candidates of a party shall be printed upon one ballot. Each section shall bear in print larger than any other print on the ballot the words VOTE IN ONE PARTY ONLY OR YOUR BALLOT WILL BE VOID in a prominent place on the ballot. The A voter shall vote for the candidates of one party only. A person voting at the primary shall not be required to indicate his or her party choice to any election official.~~

(b) [Repealed.]

Sec. 13. 17 V.S.A. § 2369 is amended to read:

§ 2369. DETERMINING WINNER; TIE VOTES

(a) A person who receives a plurality of all the votes cast by a party in a primary shall be a candidate of that party for the office designated on the ballot.

(b)(1) If, after the period for requesting a recount under section 2602 of this title has expired, no candidate has requested a recount and two or more candidates of the same party are tied for the same office, the choice among those tied shall be determined upon five days' notice and not later than 10 days following the primary election by the committee of that party, which shall meet to nominate a candidate from among the tied candidates. The committee

that nominates a candidate shall be as follows:

~~(1)~~(A) the State committee of a party for a State or congressional office;

~~(2)~~(B) the senatorial district committee for State Senate;

~~(3)~~(C) the county committee for county office; or

~~(4)~~(D) the representative district committee for a Representative to the General Assembly.

~~(e)~~(2) The committee chair shall certify the candidate nomination for the general election to the Secretary of State within 48 hours of the nomination.

* * * Nominations by Party Committee * * *

Sec. 14. 17 V.S.A. § 2381 is amended to read:

§ 2381. APPLICABILITY OF SUBCHAPTER

(a) A candidate may also be nominated and have the candidate's name printed on the general election ballot in accordance with the provisions set forth in this subchapter, in the following instances:

(1) In case of a vacancy on the general election ballot occasioned by death, removal, or withdrawal of a candidate, or the failure of a major political party to nominate a candidate by primary;

(2) In case a minor political party desires to nominate a candidate for any office for which major political parties nominate candidates by primary or for the offices of President and Vice President of the United States;

(3) In case of nomination for the office of justice of the peace, in the event that such nomination has not already been made by caucus as provided in section 2413 of this chapter.

* * *

Sec. 15. 17 V.S.A. § 2382 is amended to read:

§ 2382. WHICH COMMITTEE TO NOMINATE

Nominations of party candidates pursuant to this subchapter shall be made by the following political committee of the party:

(1) By the ~~state~~ State committee in the case of ~~state~~ President and Vice President of the United States or State or congressional officers;

* * *

Sec. 16. 17 V.S.A. § 2386 is amended to read:

§ 2386. TIME FOR FILING STATEMENTS

(a) In the case of the failure of a major political party to nominate a candidate by primary, a statement shall be filed not later than 5:00 p.m. on the sixth day following the primary.

(b) In the case of the death or withdrawal of a candidate after the primary election, the party committee shall have seven days from the date of the death or withdrawal to nominate a candidate. In no event, shall a statement be filed later than 60 days prior to the general election.

(c)(1) In the case of a nomination by a minor political party, a statement shall be filed ~~as set forth in section 2356 of this chapter~~ not earlier than the fourth Monday in April and not later than 5:00 p.m. on the Thursday preceding the primary election described in section 2351 of this chapter and not later than 5:00 p.m. on the third day prior to the day of a special primary election.

(2) A statement shall apply only to the election cycle in which the statement is filed.

(d) In the case of a nomination for the office of justice of the peace, a statement shall be filed as set forth in section 2413 of this chapter.

* * * Independent Candidate Nominations * * *

Sec. 17. 17 V.S.A. § 2402 is amended to read:

§ 2402. REQUISITES OF STATEMENT

(a) A statement of nomination shall contain:

(1) The name of the office for which the nomination is made.

(2) The candidate's name and residence.

(3) If desired, a name, or other identification (in not more than three words) to be printed on the ballot following the candidate's name.

(4) In the case of nomination for President or Vice President of the United States, ~~the~~:

(A) The name and state of residence of each candidate for such office, together with the name, town of residence, and correct mailing address of each nominee for the office of elector.

(B)(i) The original statement of nomination shall include a certification by the town clerk of each town where the signers appear to be voters that the persons whose names appear as signers of the statement are registered voters in the town and of the total number of valid signers from the town.

(ii) Only the number of signers certified as registered voters by each town clerk on the original statement of nomination forms shall count

toward the required number of signatures.

(C) The statement shall also be accompanied by a consent form from each nominee for elector. The consent form shall be similar to the consent form prescribed in section 2361 of this title.

* * *

(d)(1) A statement of nomination and a completed and signed consent form shall be filed:

(A) in the case of nomination for President or Vice President of the United States, ~~no sooner~~ not earlier than the fourth Monday in April and not later than 5:00 p.m. on the August 1 preceding the presidential general election;

(B) in the case of nomination for justice of the peace, ~~no~~ not earlier than the fourth Monday in April and not later than 5:00 p.m. on the third day following the primary election; or

(C) in the case of any other independent candidate, ~~no sooner~~ not earlier than the fourth Monday in April and not later than 5:00 p.m. on the Thursday preceding the primary election prescribed by section 2351 of this chapter, and not later than 5:00 p.m. of the third day prior to the day of a special primary election.

(2) ~~No~~ A public official receiving nominations shall not accept a petition unless a completed and signed consent form is filed at the same time.

(3) A statement of nomination shall apply only to the election cycle in which the statement of nomination is filed.

(e) The Secretary of State shall prescribe and furnish forms for a statement of nomination.

(f) In the event that an independent vice presidential candidate withdraws in accordance with section 2412 of this chapter, the presidential candidate may submit to the Secretary of State on or before the ballot printing deadline a new consent form signed by the presidential candidate and his or her new vice presidential candidate.

Sec. 18. 17 V.S.A. § 2403 is amended to read:

§ 2403. NUMBER OF CANDIDATES; PARTY NAMES

(a) A statement of nomination shall contain the name of only one candidate, except in the case of presidential and ~~vice-presidential~~ vice presidential candidates, who may be nominated by means of the same statement of nomination. A person shall not sign more than one statement of nomination for the same office.

(b)(1) The political or other name on a statement of nomination shall be substantially different from the name of any organized political party. It shall also be substantially different from the political or other name already appearing on any other statement of nomination for the same office then on file with the same officer for the same election; ~~if.~~

(2) ~~If the secretary of state~~ Secretary of State determines that it is not substantially different, the candidate named on the statement shall select a different political or other name; ~~otherwise the secretary may reject the statement of nomination~~ Secretary shall print the word "Independent" on the ballot for that candidate.

(c)(1) Except in the case of presidential and vice presidential candidates, the word "independent" may not be used as part of a party name; ~~if.~~

(2) ~~If~~ no party is indicated, the word "Independent" shall be printed on the ballot; ~~and no.~~

(3) ~~A~~ candidate appearing on the ballot as a candidate of a political party shall not also appear on the ballot as an "Independent."

* * * Nominations; Miscellaneous * * *

Sec. 19. 17 V.S.A. § 2412 is amended to read:

§ 2412. WITHDRAWAL OF CANDIDACY

(a)(1) A candidate who has been validly nominated by one of the methods prescribed in this chapter shall have a right to withdraw his or her candidacy up until 5:00 p.m. on the ~~third~~ tenth day following the primary by filing a written notice of withdrawal with the town clerk in the case of a candidate for justice of the peace, and with the ~~secretary of state~~ Secretary of State in the case of all other offices.

(2) The name of a candidate who has withdrawn in accordance with the provisions of this subsection shall not be printed on the ballot.

(b) ~~After that the date described in subdivision (a)(1) of this section,~~ if the candidate has filed a written notice of withdrawal, the town clerk or ~~secretary of state~~ Secretary of State may still remove the candidate's name from the ballot up until the printing deadline.

* * * Election Officials * * *

Sec. 20. 17 V.S.A. § 2455 is amended to read:

§ 2455. ~~DUTIES OF ELECTION OFFICIALS; DUTIES; POLITICAL~~ PARTY REPRESENTATION

(a) The assistant election officers, together with the presiding officer and

the board of civil authority, shall constitute the election officials.

(b) Except as may be specifically provided in this title, the presiding officer shall notify each election official of the hours when he or she shall be present to work at the polls and of the duties assigned to each election official.

(c) When the provisions of this title require two or more election officials of different political parties to perform an act, that political party representation requirement shall not be required if attempts to conform to it were not successful.

* * * General Election Ballots * * *

Sec. 21. 17 V.S.A. § 2472 is amended to read:

§ 2472. CONTENTS

* * *

(b)(1) Each office to be voted upon shall be separately indicated and preceded by the word “For,” as: “For United States Senator.” Beneath the office to be voted upon shall appear the instructions: “Vote for not more than (the number of candidates to be elected).”

(2) The names of the candidates for each office shall be listed in alphabetical order by surname, followed by the candidate’s town of residence, and the party or parties by which the candidate has been nominated, or in the case of independent candidates who have not chosen some other name or identification, by the word “Independent.” The word “party” shall not be printed on the ballot following a candidate’s party name.

* * *

* * * Vote Tabulators * * *

Sec. 22. 17 V.S.A. § 2491 is amended to read:

§ 2491. POLITICAL SUBDIVISION; VOTE TABULATORS

(a) Except as provided in subsection (b) of this section, a board of civil authority may, at a meeting held not less than 60 days prior to an election and warned pursuant to 24 V.S.A. § 801, vote to require the political subdivision for which it is elected to use vote tabulators for the registering and counting of votes in subsequent local, primary, or general elections, or any combination of those.

(b) A town with 1,000 or more registered voters as of December 31 in an even-numbered years year shall use vote tabulators for the registering and counting of votes in subsequent general elections.

(c)(1) The Office of the Secretary of State shall pay the following costs

associated with this section by using federal Help America Vote Act funds, as available:

(A) full purchase and warranty cost of vote tabulators, ballot boxes, and two memory cards for each tabulator;

(B) annual maintenance costs of vote tabulators for each town; and

(C) the first \$500.00 of the first pair of a vote tabulator’s memory cards’ configuration costs for each primary and general election.

(2) A town shall pay the remainder of any cost not covered by subdivision (1) of this subsection.

Sec. 23. 17 V.S.A. § 2493 is amended to read:

§ 2493. RULES FOR USE OF VOTE TABULATORS; AUDITS

(a) The Secretary of State shall adopt rules governing the use and the selection of any vote tabulator in the State. These rules shall include requirements that:

* * *

(4)(A) All vote tabulators shall be set to reject a ballot that contains an overvote and ~~provide the voter shall be provided the opportunity to obtain another ballot and correct the overvote, have the ballot declared spoiled, and obtain another ballot.~~ If an early voter absentee ballot contains an overvote, the elections official shall override the vote tabulator and count all races except any race that contains an overvote.

* * *

(b) Each vote tabulator shall be tested using official ballots that are marked clearly as “test ballots” at least 10 days prior to an election. This test shall be open to the public.

* * *

* * * Polling Places * * *

Sec. 24. 17 V.S.A. § 2508 is amended to read:

§ 2508. CAMPAIGNING DURING POLLING HOURS; VOTER ACCESS

(a)(1) The presiding officer shall ~~insure~~ ensure during polling hours on the day of the election that:

(1)(A) Within the building containing a polling place, no campaign literature, stickers, buttons, name stamps, information on write-in candidates, or other political materials are displayed, placed, handed out, or allowed to remain; and

~~(2)(B)~~ Within the building containing a polling place, no candidate, election official, or other person distributes election materials, solicits voters regarding an item or candidate on the ballot, or otherwise campaigns; and

~~(3)(C)~~ On the walks and driveways leading to a building in which a polling place is located, no candidate or other person may physically interfere ~~interferes~~ with the progress of a voter to and from the polling place.

(2) The provisions of subdivision (1) of this subsection shall apply to the town clerk's office during any period of early or absentee voting.

(b) During polling hours, the presiding officer shall control the placement of signs on the property of the polling place in a fair manner.

(c) The provisions of this section shall be posted in the notice required by section 2521 of this title.

* * * Voter Information * * *

Sec. 25. 17 V.S.A. § 2521 is amended to read:

§ 2521. WARNINGS AND NOTICES

(a) Not less than 30 days before the election, the town clerk shall cause a warning and notice to be posted informing the voters of the town about the election.

(1) The warning shall include the date and time of the election, location of the polling place or places, nature of the election, and offices or questions to be voted upon.

(2) The notice shall contain information on voter registration and early or absentee voting, on how to obtain ballots, mark them, get help marking them, and obtain new ballots ~~in place of those accidentally spoiled if an error is made~~; information about offenses relating to elections; instructions on how to get help if there is a problem on election day; instructions for registrants by mail; instructions for first-time voters; instructions on who may cast a provisional ballot; instructions on how to cast a provisional ballot; information on federal and ~~state~~ State laws prohibiting fraud and misrepresentation; instructions on how to contact the appropriate official if a person believes any of his or her rights to vote have been violated; and other appropriate information.

(3) The warning and notice shall be posted in at least two public places within each town and in or near the town clerk's office. If a town has more than one polling place, the warning and notice shall be posted in at least two public places within each voting district and in or near the town clerk's office.

(4) The checklist shall also be posted as required in section 2141 of this

title.

* * *

* * * Early or Absentee Voters * * *

Sec. 26. 17 V.S.A. § 2531 is amended to read:

§ 2531. APPLICATION FOR EARLY VOTER ABSENTEE BALLOT

(a)(1) A voter who expects to be an early or absentee voter, or an authorized person on behalf of such voter, may apply for an early voter absentee ballot until 5:00 p.m. or the closing of the town clerk's office on the day preceding the election.

(2) If a town clerk does not have regular office hours on the day before the election and his or her office will not otherwise be open on that day, an application may be filed until the closing of the clerk's office on the last day that office has hours preceding the election.

(b) All applications shall be filed with the town clerk of the town in which the early or absentee voter is registered to vote. The town clerk shall file written applications and memoranda of verbal applications in his or her office, and shall retain the applications and memoranda for 90 days following the election, at which time they may be destroyed.

(c) Voting by early voter absentee ballot shall be allowed only in elections using the Australian ballot system.

Sec. 27. 17 V.S.A. § 2532 is amended to read:

§ 2532. APPLICATIONS; FORM

(a)(1) An early or absentee voter, or an authorized family member or health care provider acting in the voter's behalf, may apply for an early voter absentee ballot by telephone, in person, or in writing. "Family member" here means a person's spouse, children, brothers, sisters, parents, spouse's parents, grandparents, and spouse's grandparents. Any other authorized person may apply in writing or in person; provided, however, that voter authorization to such a person shall not be given by response to a robotic phone call.

(2) The application shall be in substantially the following form:

REQUEST FOR EARLY VOTER ABSENTEE BALLOT

Name of early or absentee voter: _____

Voter's Town of Residence: _____

Current physical address (address where you reside): _____

Residence (if different): _____

Telephone Number: _____ E-mail Address: _____

Date: _____

I request early voter absentee ballot(s) for the election(s) checked below:

- (1) Annual Town Meeting;
- (2) All other local elections;
- (3) August Primary Election;
- (4) Presidential Primary (YOU MUST SELECT PARTY);
- (5) November General Election
- (6) All elections in this calendar year

Please deliver the ballot(s) as indicated below (check one):

(1) Mail to voter at: _____

Street or P.O. Box Town/City State Zip Code

(2) Delivery by two Justices of the Peace (this may only be selected if you are ill or if you have a physical disability).

If applicant is other than early or absentee voter:

Name of applicant: _____

Address of applicant: _____

Relationship to early or absentee voter: _____

Organization, if applicable: _____

Date: _____ Signature of applicant: _____

(3) If the application is made by telephone or in writing, the information supplied must be in substantial conformance with the information requested on this form.

* * *

(d) ~~An application for an early voter absentee ballot shall be valid for only one election, unless specific request is made by an early or absentee voter that the application be valid for both a primary election, excluding a presidential primary, and the general election next following the elections or the time frame specified by the applicant, as long as both ballots are to be mailed to the same address.~~

(e) A single application shall only be valid for any elections within the same calendar year.

* * *

Sec. 28. 17 V.S.A. § 2537 is amended to read:

§ 2537. EARLY OR ABSENTEE VOTING IN THE TOWN CLERK'S OFFICE

(a)(1) A voter may, if he or she chooses, apply in person to the town clerk for the early voter absentee ballots and envelopes rather than having them mailed as required by section 2539 of this ~~title~~ subchapter.

(2) In this case, the clerk shall furnish the early voter absentee ballots and envelopes when a valid application has been made.

(3) The voter may mark his or her ballots, ~~seal~~ place them in the envelope, sign the certificate, and return the ballots in the ~~sealed~~ sealed envelope containing the certificate to the town clerk or an assistant town clerk, without leaving the office of the town clerk, or the voter may take the ballots and return them to the town clerk in the same manner as if the ballots had been received by mail.

(b) No person, except justices of the peace as provided in section 2538 of this ~~title~~ subchapter, may take any ballot from the town clerk on behalf of any other person.

Sec. 29. 17 V.S.A. § 2540 is amended to read:

§ 2540. INSTRUCTIONS TO BE SENT WITH BALLOTS

(a) The town clerk shall send with all early voter absentee ballots and envelopes printed instructions, which may be included on the envelope, in substantially the following form:

INSTRUCTIONS FOR EARLY OR ABSENTEE VOTERS

1. Mark the ballots.
2. ~~Seal~~ Place them in this envelope.
3. Fill out and sign the certificate on the envelope.
4. Mail or deliver the ~~sealed~~ envelope containing the ballots to the town clerk of the town where you are a registered voter in time to arrive ~~no~~ not later than election day.

Note: If these ballots have been brought to you personally by two justices of the peace because of your illness or physical disability, just return them to the justices after you have ~~sealed~~ sealed and signed the envelope. YOU HAVE THE RIGHT TO MARK YOUR BALLOTS IN PRIVATE - but if you ask for help in filling out the ballots, they will give it to you.

BE SURE TO FILL OUT AND SIGN THE CERTIFICATE ON THIS ENVELOPE OR YOUR VOTE WILL NOT COUNT!

* * *

Sec. 30. 17 V.S.A. § 2541 is amended to read:

§ 2541. MARKING OF BALLOTS

* * *

(c) If an early or absentee voter ~~spoils~~ makes an error in marking a ballot, the voter may return ~~the spoiled that~~ that ballot by mail or in person to the town clerk and receive another ballot, consistent with the provisions of section 2568 of this title.

Sec. 31. 17 V.S.A. § 2543 is amended to read:

§ 2543. RETURN OF BALLOTS

(a) After marking the ballots and signing the certificate on the envelope, the early or absentee voter to whom the same are addressed shall return the ballots to the clerk of the town in which he or she is a voter, in the manner prescribed, except that in the case of a voter to whom ballots are delivered by justices, the ballots shall be returned to the justices calling upon him or her, and they shall deliver them to the town clerk.

(b) Once an early voter absentee ballot has been returned to the clerk in the ~~sealed~~ envelope with the signed certificate, it shall be stored in a secure place and shall not be returned to the voter for any reason.

(c) If a ballot includes more than one page, the early or absentee voter need only return the page upon which the voter has marked his or her vote.

(d)(1) All early voter absentee ballots returned to the clerk before the polls close on election day as follows shall be counted:

(A) by any means, to the town clerk's office before the close of the polls on the day of the election; or

(B) by hand delivery to the presiding officer at the voter's polling place.

(2) An early voter absentee ballot returned in a manner other than those set forth in subdivision (1) of this subsection shall not be counted.

Sec. 32. 17 V.S.A. § 2546 is amended to read:

§ 2546. DEPOSIT OF EARLY VOTER ABSENTEE BALLOTS IN
BALLOT BOX OR VOTE TABULATOR

(a)(1)(A) ~~No sooner~~ Not earlier than 30 days before the opening of polls on election day, the town clerk ~~of a municipality with at least 300 registered voters on its checklist~~ may direct two election officials working together to do all of the following:

~~(1) open the outside envelope in order to and sort early voter absentee ballots by ward and district, may data enter the return of the ballots by the voter, may if necessary;~~

~~(2) determine that the certificate has been properly completed and signed;~~

~~(3) check the name of the early voter off the entrance checklist; and may~~

~~(4) place the inside certificate envelopes in various secure containers into a secure container marked "checked in early voter absentee ballots" to be transported to the polling places on election day.~~

~~(B) No sooner than 48 hours before the opening of polls on election day, a town clerk in all other municipalities may direct two election officials working together to open the outside envelope and remove the certificate envelope in order to determine that an early voter absentee ballot certificate has been properly signed by the early voter, and that the name of the early voter appears on the checklist.~~

~~(2) The election officials shall check the name of the early voter off the entrance checklist and place the sealed envelope into a secure container marked "checked in early voter absentee ballots" to be transported to the polling place on election day.~~

~~(3) Upon opening of the polls on election day, ballots from this container shall be opened by election officials, who are not members of the same political party, and deposited either into the ballot box or into the vote tabulator.~~

~~(b) The town clerk or presiding officer shall deliver the unopened early voter absentee ballots to the election officials at the place where the entrance checklist is located. Upon the opening of the polls on election day:~~

~~(1) If the ballots are in a container marked "checked in early voter absentee ballots," two one election officials from different political parties official shall open the certificate envelopes, turn the certificate side face down, and hand the envelope face down to a second election official from a different political party, who shall remove the ballots from the envelopes and deposit the ballots into them in the ballot box or into the vote tabulator.~~

~~(2) If the ballots have not been previously checked off the entrance checklist and if an two election official determines officials, from different political parties, determine that the certificate on the envelope is properly completed and signed by the early voter, the name of the early voter appears on the checklist, and the early voter is not a first-time voter in the municipality who registered by mail and is marked on the checklist as requiring additional documentation, the election official officials shall mark the checklist, open the~~

~~envelope certificate envelope, turn the certificate side face down, and hand the envelope face down to a third election official who shall remove the ballots from the envelopes and deposit the ballot ballots in the proper ballot box or vote tabulator.~~

(3)(A) If the early voter is a first-time voter who registered by mail or online, ~~the two election official officials from different political parties shall determine whether the identification required under subdivision 2563(1) of this title has been submitted by the voter. Upon ascertaining that the proper identification has been submitted by the voter, the election official officials shall mark the checklist, open the certificate envelope, turn the certificate side face down, and hand the envelope face down to a third election official who shall remove the ballots from the envelopes and deposit the ballot in the proper ballot box or vote tabulator.~~

(B) If the proper identification has not been submitted, the ballot shall be treated as a provisional ballot, as provided in subchapter 6A of this chapter.

(c) All early voter absentee ballots shall be commingled with the ballots of voters who have voted in person.

Sec. 33. 17 V.S.A. § 2546a is amended to read:

§ 2546a. DAY PRECEDING ELECTION; DEPOSIT OF EARLY VOTER
ABSENTEE BALLOTS IN VOTE TABULATOR

* * *

(d) Count and inspection.

(1) On the day preceding the election, at least one hour prior to depositing the ballots in the vote tabulator, the town clerk and the election officials shall:

~~(1)(A)~~ first open the secure container marked “checked in early voter absentee ballots,” count the sealed certificate envelopes containing those ballots, and record the number counted; and

~~(2)(B)~~ permit these sealed certificate envelopes to be inspected by members of the public.

(2) Any early voter absentee ballot that is returned after the expiration of the period for the count and inspection shall be processed on the day of the election in accordance with section 2546 of this subchapter.

(e) Processing.

(1) Immediately after the expiration of the period for the count and inspection described in subsection (d) of this section, the town clerk and

election officials shall open each sealed certificate envelope containing an early voter absentee ballot that was counted under subdivision (d)(1) of this section and deposit each ballot into a vote tabulator.

(2) The town clerk and the election officials shall ensure that all procedures for handling ballots are followed to the fullest extent practicable.

(3) At the end of the processing, the town clerk shall verify that the vote tabulator's memory card is locked in place and shall sign a statement verifying how many early voter absentee ballots were counted by the vote tabulator and that the memory card is so locked. The town clerk shall compare the vote tabulator's number of counted ballots to the original count of those ballots described in ~~subsection (d)~~ subdivision (d)(1) of this section.

* * *

Sec. 34. 17 V.S.A. § 2547 is amended to read:

§ 2547. DEFECTIVE BALLOTS

(a) If upon examination by the election officials it shall appear that any of the following defects is present, either the ballot or the unopened certificate envelope shall be marked "defective" and the ballot shall not be counted:

(1) the early or absentee voter is not legally qualified to vote, ~~or;~~

(2) the early or absentee voter has voted in person, ~~or that;~~

(3) the affidavit on any the certificate envelope is insufficient, not completed;

(4) the certificate is not signed, ~~or;~~

(5) the voted ballot is not in the voted ballot certificate envelope; ~~or;~~

(6) in the case of a primary vote, the early or absentee voter has failed to return the unvoted primary ballots, such envelope shall be marked "defective," and the ballots inside shall not be counted and.

(b) Each defective ballot or unopened certificate envelope shall be:

(A) affixed with a note from the presiding officer indicating the reason it was determined to be defective;

(B) placed with other such defective ballots in an envelope marked "Defective Ballots – Voter Checked Off Checklist - Do Not Count"; and

(C) shall be returned in the unopened that envelope to the town clerk in the manner prescribed by section 2590 of this title.

(c) The provisions of this section shall be indicated prominently in the early or absentee voter material prepared by the Secretary of State.

Sec. 35. 17 V.S.A. § 2548 is amended to read:

§ 2548. VOTING IN PERSON

* * *

(b)(1) A person who in good faith has received early voter absentee ballots for his or her use but has not yet marked them, if he or she is able to vote in person, may cast the early voter absentee ballots as provided above, or may vote in person after returning the complete set of unmarked ballots, together with the envelope intended for their return, to the presiding officer at the time the voter appears to vote in person.

(2) If a person does not have his or her absentee ballots to return, the person shall be checked off the checklist and permitted to vote only after completing a sworn affidavit that he or she does not have his or her absentee ballots to return.

(3) The presiding officer shall return the unused early voter absentee ballots and envelope to the town clerk, who shall make a record of their return on the list of early or absentee voters and treat them as ~~spoiled or unused~~ replaced ballots, pursuant to section 2568 of this title.

* * * Provisional Voting * * *

Sec. 36. 17 V.S.A. § 2555 is amended to read:

§ 2555. PROVISIONAL BALLOT ENVELOPES

The clerk shall deliver to each polling place on the date of the election a sufficient number of provisional ballot envelopes printed with a voter attestation. The attestation shall include:

* * *

(4) A statement informing the provisional voter: ~~“Provisional balloting allows a provisional voter only to vote in federal elections. If you wish to vote in any other State or local election, you should return this form to the elections officials and file an appeal in Superior Court in the county in which you live pursuant to section 2148 of this title. If you choose to vote by provisional ballot, after the close of the polls, the town clerk will determine whether you meet all eligibility requirements. If the clerk denies your application, he or she will inform you that the application has been denied.”~~

* * * Process of Voting * * *

Sec. 37. 17 V.S.A. § 2563 is amended to read:

§ 2563. ADMITTING VOTER

Before a person may be admitted to vote, he or she shall announce his or

her name and, if requested, his or her place of residence in a clear and audible tone of voice, or present his or her name in writing, or otherwise identify himself or herself by appropriate documentation. The election officials attending the entrance of the polling place shall then verify that the person's name appears on the checklist for the polling place.

(1) If the name does appear, and if no one immediately challenges the person's right to vote on grounds of identity or having previously voted in the same election, the election officials shall repeat the name of the person and:

(A)(i) If the checklist indicates that the person is a first-time voter in the municipality who registered by mail or online, whose driver's license, nondriver identification number, or last four digits of his or her Social Security number provided by the applicant have not been verified by the Secretary of State, and who has not provided required identification before the opening of the polls, require the person to present any one of the following: a valid photo identification; a copy of a current utility bill; a copy of a current bank statement; or a copy of a government check, paycheck, or any other government document that shows the current name and address of the voter.

* * *

Sec. 38. 17 V.S.A. § 2564 is amended to read:

§ 2564. CHALLENGES

(a)(1)(A) Each organized political party, each candidate on the ballot not representing an organized political party, and each committee supporting or opposing any public question on the ballot shall have the right to have not more than two representatives for each voting district, in a polling place but outside the guardrail, for the purpose of observing the voting process and challenging the right of any person to vote.

(B) In no event shall such representatives be permitted to interfere with the orderly conduct of the election, and the presiding officer shall have authority to impose reasonable rules for the preservation of order.

(C) However, in all cases the representatives shall have the right to hear or see the name of a person seeking to vote, and they shall have the right to make an immediate challenge to a person's right to vote.

(2) The grounds of challenge of a person whose name appears on the checklist shall be only:

~~(1)~~(A) that he or she is not, in fact, the person whose name appears on the checklist; or

~~(2)~~(B) that he or she has previously voted in the same election.

(b) If a challenge is issued, the members of the board of civil authority present in the polling place shall immediately convene, informally hear the facts, and decide whether the challenge should be sustained.

(1) If the board overrules the challenge, the person shall immediately be admitted within the guardrail and permitted to vote.

(2) If the board sustains the challenge, the person shall not be admitted unless, before the polls close, he or she shall obtain a court order directing that he or she be permitted to vote.

Sec. 39. 17 V.S.A. § 2566 is amended to read:

§ 2566. MARKING BALLOTS

On receiving his or her ballots, the voter shall forthwith, and without leaving the polling place or going outside the guardrail, proceed to one of the booths not occupied by any other person and vote by filling in the appropriate square or oval opposite the name of the candidate of his or her choice for each office, or by ~~filling~~ writing in the name of the candidate of his or her choice in the blank space provided and filling in the square or oval to the right of that blank space.

Sec. 40. 17 V.S.A. § 2568 is amended to read:

§ 2568. ~~SPOILED~~ REMOVING BALLOTS FROM POLLING PLACE;
REPLACEMENT, BLANK, AND UNUSED BALLOTS

(a) Removing ballots from polling place. A person shall not take or remove a ballot from the polling place before the close of the polls.

(b) Replacement ballots.

(1) If a voter ~~spoils~~ desires a replacement ballot, he or she may obtain ~~others~~ another, ~~one at a time~~, not exceeding three in all, upon each time returning to an election official the spoiled ~~one~~ previous ballot he or she was provided.

(2) If a ballot is returned to an election official by a voter desiring a replacement ballot, the ballot returned by the voter shall be immediately delivered to the presiding officer or his or her designee, who shall tear it in half and place it in an envelope containing all ballots returned by the voters that is clearly marked "Do Not Count—Replaced Ballots." At the close of the polls, this envelope shall be sealed and delivered to the clerk pursuant to section 2590 of this chapter. ~~If a person fails to use a ballot, he or she shall deliver it to the presiding officer before going outside the guardrail.~~

(c) ~~Spoiled and unused~~ Unused ballots shall be ~~immediately canceled and, together with those,~~ originally delivered to the presiding officer which

~~that remain undistributed to the voters, shall be preserved and returned to the town clerks, in the same manner provided for in section 2590 of this title, and the clerk shall preserve them in such condition, unless called for by some authority entitled to demand and receive them. After 90 days from the date the election is held, they may be destroyed or distributed by the town clerk for educational purposes or for any other purpose the town clerk deems appropriate.~~

Sec. 41. 17 V.S.A. § 2570 is amended to read:

§ 2570. DEPOSITING BALLOTS

(a) In primary elections, the voter shall first hand any unvoted primary ballots to the appropriate election official, who shall deposit those ballots in a receptacle marked for unvoted primary ballots. The voter shall then deposit the voted ballot in the ballot box or vote tabulator, unless the voter requires assistance in depositing the ballot.

* * *

* * * Count and Return of Votes * * *

Sec. 42. 17 V.S.A. § 2586 is amended to read:

§ 2586. ~~SECRETARY OF STATE TO PREPARE FORMS TALLY SHEETS; SUMMARY SHEETS; RETURNS~~

The ~~secretary of state~~ Secretary of State shall design, prepare, and distribute a sufficient supply of the following forms, which ~~shall~~ may be used in each polling place during the counting process:

(1) Tally sheets.

(A) These sheets shall provide a place to identify the office or question for which the ballots are being counted, the name of each candidate for that office, and the signature of the pair of election officials actually counting the ballots.

(B) Votes for each candidate or question shall be recorded on the tally sheets by means of “tick” marks or some other convenient system, and the total shall then be written on the tally sheet.

(C) Blank votes (undervotes) and ~~spoiled ballots~~ overvotes shall be indicated.

(D) ~~All~~ In towns that count ballots by hand, all votes must be accounted for on the tally sheets.

* * *

Sec. 43. 17 V.S.A. § 2587 is amended to read:

§ 2587. RULES FOR COUNTING ~~BALLOTS~~ VOTES

(a)(1) In counting ~~ballots~~ votes, election officials shall attempt to ascertain the intent of the voter, as expressed by markings on the ballot ~~which and in a manner that is consistent with guidance that shall be adopted by rule by the Secretary of State. The Secretary shall adopt, by rule, guidance on determining whether a ballot is spoiled.~~

(2) If it is impossible to determine the intent of the voter for any office or public question, the ~~ballot~~ vote shall be counted as a blank or ~~spoiled~~ overvote, as the case may be, for that office or question; but that determination shall not control any other office or question appearing on the ballot for which the voter's intent can be determined.

(3) If they have any doubt about the intent of the voter or any other question about a ~~ballot~~ vote, the election officials counting the ~~ballot~~ vote shall bring it to the presiding officer, who shall present the question of how to treat the ~~ballot~~ vote to the assembled election officials. The decision of how to treat the ~~ballot~~ vote shall be made by majority vote of the election officials who are present.

(b) If the voter marks more names than there are persons to be elected to an office, or marks contradictory sides on any public question, ~~his or her ballot shall not be counted for that office or public question~~ overvotes equal to the number of candidates to be elected to the office must be recorded on the tally sheet for that office or question.

(c)(1) A write-in vote for a candidate whose name is preprinted on the ballot shall be counted as a vote for that candidate.

(2) A person who receives more than one vote for the same office on any ballot shall be entitled to one vote, and one vote only.

(d) If the board of civil authority decides by majority vote of those present that any markings on a ballot were made for the purpose of enabling it to be identified and the vote traced, so as to defeat the secrecy of the ballot,:

(1) that ballot shall be:

(A) rejected;

(B) marked defective and affixed with a note from the presiding officer as to why it was marked defective; and

(C) placed in the defective ballot envelope in accordance with subsection 2547(b) of this chapter; and

(2) the election officials may edit the vote tabulator totals reported on the vote tabulator tape, as necessary. The board shall make a record of the

~~rejection and the reason for it, and shall preserve the record with the ballot in question.~~

(e)(1) In the case of “write-in” votes, the act of writing in the name of a candidate, or pasting a label containing a candidate’s name upon the ballot, without other indications of the voter’s intent, shall constitute a vote for that candidate, even though the voter did not fill in the square or oval after the name.

(2) The election officials counting ballots and tallying results shall list every person who receives a “write-in” vote and the number of votes received.

(A) On each tally sheet, the counters shall add together the names of candidates that are clearly the same person, even though a nickname or last name is used.

(B) Names of fictitious or deceased persons shall not be listed and shall be recorded on the tally sheet as a blank vote.

* * *

Sec. 44. 17 V.S.A. § 2588 is amended to read:

§ 2588. FILING RETURNS

For any primary or general election:

~~(a)(1)(A)~~ (A) In towns that count all ballots by hand, as the count of votes for each office or public question is completed, the presiding officer and at least one other election official shall collect the tally sheets, enter the totals shown on the tally sheets upon the summary sheets, add and enter the sum of the figures, and sign the summary sheets.

(B) As each summary sheet is completed, the presiding officer shall publicly announce the results.

~~(b)(2)(A)~~ (A) In towns that use vote tabulators, after the close of the polls and after all remaining absentee or transfer ballots have been fed into the vote tabulator, the presiding officer shall insert the ender card and the tabulator will print a tape of unofficial results. The presiding officer shall print at least ~~two~~ one additional copies copy of the tabulator tape.

(B) The unofficial results from the tape may be publicly announced, and one copy of the printed tape may be posted in the polling place upon a placard that clearly states: “Unofficial incomplete results.”

~~(c) For any primary or general election:~~

~~(1)(3)~~ (3) The town clerk shall report as soon as practicable on the day of the election the unofficial vote counts of all candidates whose names appeared

on the ballot to the Secretary of State. The report shall be made by electronically submitting the vote counts on the Secretary's online elections reporting system or, if unable to submit electronically, by submitting those vote counts to the Secretary of State by telephone, facsimile, or e-mail.

~~(2)~~(4) The Secretary shall ensure that any vote counts submitted by telephone, facsimile, or e-mail are entered into his or her online elections reporting system as soon as practicable after he or she receives them.

~~(3)~~(5) The Secretary's online elections reporting system shall cause the unofficial vote counts to be posted immediately on the Secretary's official website as soon as those vote counts are submitted.

~~(d)~~(6)(A) The presiding officer and one other election official then shall proceed either to complete the return at once, or to store the summary sheets in a safe and secure place until their retrieval for completion of the return. In any event, ~~no~~ not later than ~~24~~ 48 hours after the polls close, the presiding officer and at least one other election official shall transfer the totals from the summary sheets to the proper spaces on the return, and both shall sign the return.

(B) The town clerk shall store the summary sheets safely so that the public cannot reasonably have access to them for a period of 90 days without the town clerk's consent.

(C) The original of the return shall be delivered to the town clerk. In a manner prescribed by the Secretary of State and within 48 hours of the close of the polls, the town clerk shall deliver to the Secretary of State, the senatorial district clerk, the county clerk, and the representative district clerk one certified copy each of the return. The town clerk shall also make a copy available to the public upon request.

Sec. 45. 17 V.S.A. § 2590 is amended to read:

§ 2590. SECURING AND STORING BALLOTS, TALLY SHEETS, AND CHECKLISTS

(a)(1) The following shall not be placed in a sealed container, but shall be delivered to the town clerk along with the sealed containers:

(A) ballots that were never distributed to voters;

(B) any vote tabulator memory card; and

(C) the original entrance checklist.

(2) The presiding officer shall collect and deliver to the town clerk, securely sealed in the containers described in subsection (c) of this section, the following:

- (A) packages of voted ballots;
- (B) envelopes containing ballots that have been replaced;
- (C) envelopes containing defective ballots;
- (D) the exit checklist, if present;
- (E) tally sheets; and

(F) ~~other election material shall be collected by the presiding officer and delivered to the town clerk, securely sealed in the containers provided for in subsection (b) of this section.~~

(3) A copy of the entrance checklist shall be placed in the outside pocket of the sealed container or otherwise stored along with but outside the sealed container for delivery to the court in the event of a recount.

(4) If the material collected from one polling place is sealed in more than one container, the presiding officer shall ensure that there shall be attached to the container in which the exit checklist or checklists are is located, a tag stating that the checklist ~~or checklists are is~~ is in that container.

(5) The form of the seal shall be designated and furnished by the ~~secretary of state~~ Secretary of State in sufficient quantities to each town clerk. The ~~secretary of state~~ Secretary of State shall require that all seals be safely kept and fully accounted for. ~~The entrance checklist shall also be forwarded to the town clerk.~~

(b) The ~~secretary of state~~ Secretary of State shall furnish to all town clerks sufficient quantities of uniform-style containers. The ~~secretary of state~~ Secretary shall establish a method by which the outside of each container shall indicate the contents of the container, the town to which it belongs, and such other pertinent information as may be required.

(c)(1) ~~The presiding officer shall return all sealed containers to the town clerk, who shall safely store them~~ the sealed containers and shall not permit them to be removed from his or her custody or tampered with in any way.

(2)(A) In the event that a ~~ballot bag or~~ container breaks, splits, or opens through handling, or in the event the original entrance checklist or a vote tabulator memory card was inadvertently sealed in a ~~ballot bag or~~ container, the town clerk shall notify the ~~secretary of state~~ Secretary of State in writing, and the ~~secretary of state~~ Secretary shall order the town clerk in the presence of two other town election officials who are not members of the same political party to open the bag to remove the entrance checklist or vote tabulator memory card or to move the entire contents to new ~~bags or~~ containers, affix new seals, and transmit the new seal numbers.

~~(B) Ballot bags or containers~~ Containers shall not be removed or tampered with in any other way, except under court order, or by order of any authorized committee of the ~~general assembly~~ General Assembly.

~~(C) If necessary for safe storage of the containers, the town clerk may store them in a bank vault or other secure place, within or without outside the town, provided that access to them cannot reasonably be had without the town clerk's consent.~~

* * *

Sec. 46. 17 V.S.A. § 2592 is amended to read:

§ 2592. CANVASSING COMMITTEES; CANVASS OF VOTES IN
GENERAL OR SPECIAL ELECTIONS

(a) For all ~~state~~ State and national offices and statewide public questions, the ~~secretary of state~~ Secretary of State and the chair of the ~~state~~ State committee of each major political party (or designee) shall constitute a canvassing committee to receive and tally returns and issue certificates.

(b) For all county offices (~~except justice of the peace~~) and countywide public questions, the county clerk and the chair of the county committee of each major political party (or designee) shall constitute a canvassing committee to receive and tally returns and issue certificates.

* * *

(k)(1) In the case of the State offices of ~~governor, lieutenant governor, treasurer, secretary of state, attorney general, and auditor of accounts~~, the canvassing committee shall prepare a certificate of election but shall not sign it.

(2) The prepared certificate shall be presented to the official canvassing committee appointed by the ~~general assembly~~ General Assembly, pursuant to Chapter II, § 47 of the Constitution of the State of Vermont ~~constitution~~, for their use if they desire.

(l)(1) In the case of a tie vote, the canvassing committee shall forthwith petition the appropriate ~~superior court~~ Superior Court for a recount pursuant to section 2602 of this title.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, either of the candidates that is involved in a tie may notify the appropriate Superior Court that he or she is withdrawing, in which case the court shall certify the other candidate as the winner.

(m) Each canvassing committee shall file a report of its findings with the ~~secretary of state~~ Secretary of State, who shall preserve the reports as

permanent records.

* * * Contested Legislative Elections * * *

Sec. 47. 17 V.S.A. § 2605 is amended to read:

§ 2605. HOUSE OF REPRESENTATIVES

(a) A candidate for the office of ~~representative to the general assembly~~ Representative to the General Assembly in the general election, or any elected town officer in the representative district, or any 25 voters in the representative district may request the ~~house of representatives~~ House of Representatives to exercise its constitutional authority to judge of the elections and qualifications of its own members, by filing a written request with the ~~secretary of state~~ Secretary of State specifying the candidate or candidates whose election is being challenged. The request must be filed ~~no~~ not later than the latest of the following:

(1) 20 days after the date of the election; or

(2) 10 days after a final court judgment, if there is a recount under section 2602 of this title; ~~or~~

(3) ~~10 days after a final court judgment, if there is a contest under section 2603 of this title.~~

(b)(1) The ~~secretary of state~~ Secretary of State shall notify the ~~attorney general~~ Attorney General, who shall investigate the facts, take such depositions as may be necessary, prepare an opinion on the law and facts, and send his or her report and opinion to the ~~secretary of state~~ Clerk of the House at least 10 days before the ~~general assembly~~ General Assembly convenes.

(2) If the Attorney General needs additional time to conduct the investigation or prepare the report and opinion required by this subsection, he or she shall alert the Clerk of the House of that need and the date by which he or she plans to submit the report and opinion.

Sec. 48. 17 V.S.A. § 2606 is amended to read:

§ 2606. SENATE

(a) A candidate for the office of ~~state senator~~ State Senator in the general election, or any 100 voters in the senatorial district may request the ~~senate~~ Senate to exercise its constitutional authority to judge of the elections and qualifications of its own members by filing a written request with the ~~secretary of state~~ Secretary of State specifying the candidate or candidates whose election is being challenged. The request must be filed ~~no~~ not later than the latest of the following:

(1) 20 days after the date of the election; or

(2) 10 days after a final court judgment, if there is a recount under section 2602 of this title;~~or~~

~~(3) 10 days after a final court judgment, if there is a contest under section 2603 of this title.~~

~~(b)(1) The secretary of state~~ Secretary of State shall notify the ~~attorney general~~ Attorney General, who shall investigate the facts, take such depositions as may be necessary, prepare an opinion on the law and facts, and send his or her report and opinion to the ~~secretary of the senate~~ Secretary of the Senate at least 10 days before the ~~general assembly~~ General Assembly convenes.

(2) If the Attorney General needs additional time to conduct the investigation or prepare the report and opinion required by this subsection, he or she shall alert the Secretary of the Senate of that need and the date by which he or she plans to submit the report and opinion.

* * * Local Elections; Generally * * *

Sec. 49. 17 V.S.A. § 2640 is amended to read:

§ 2640. ANNUAL MEETINGS

(a) A meeting of the legal voters of each town shall be held annually on the first Tuesday of March for the election of officers and the transaction of other business, and it may be adjourned to another date. When a municipality fails to hold an annual meeting, a warning for a subsequent meeting shall be issued immediately, and at that meeting all the officers required by law may be elected and its business transacted.

(b) When a town so votes, it may thereafter start its annual meeting on any of the three days immediately preceding the first Tuesday in March at such time as it elects and may transact at that time any business not involving voting by Australian ballot or voting required by law to be by ballot and to be held on the first Tuesday in March. A meeting so started shall be adjourned until the first Tuesday in March.

(c)(1) Notwithstanding section 2508 of this title, public discussion of ballot issues and all other issues appearing in the warning, other than election of candidates, shall be permitted on that day at the annual meeting, regardless of the location of the polling place.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a candidate for local office nominated from the floor at the annual meeting may introduce his or her candidacy to the extent permitted by the voters at the meeting.

Sec. 50. 17 V.S.A. § 2650 is amended to read:

§ 2650. ADDITIONAL SELECTMEN AND LISTERS AND
SELECTBOARD MEMBERS

(a) Additional listers. A town may vote at a special or annual town meeting to elect ~~not more than~~ two additional listers for terms of one year each.

(b) Additional selectboard members.

(1)(A) A town may vote at a special or annual town meeting to elect ~~not more than~~ two additional ~~selectmen~~ selectboard members for terms of either one or two years each.

(B) When the terms of the additional ~~selectmen~~ selectboard members are to be for two years, the warning for the meeting shall so specify.

(2)(A) If two additional ~~selectmen~~ selectboard member positions are created, they shall be for terms of the same length, but if the terms of the new positions are to be for two years, when the additional ~~selectmen~~ selectboard members are first elected, one shall be elected for one year and the other ~~selectman~~ selectboard member for two years.

(B) Terms of these additional ~~selectmen~~ selectboard members shall end on annual meeting days. If the additional ~~selectmen~~ selectboard members are elected at a special meeting, the term of those elected for one year shall expire on the next annual meeting day and those elected for two years shall expire on the second annual meeting day following their election.

(c) Discontinuing additional listers or selectboard members.

(1) A vote establishing additional ~~selectmen or listers~~ or selectboard members shall remain in effect until the town votes to discontinue the two additional positions at an annual or special meeting duly warned for that purpose.

(2) The term of office of any lister or selectboard member in office on the date a town votes to discontinue that office shall expire on the 31st day after the vote, unless a petition for reconsideration or rescission of that vote is filed with the clerk of the municipality in accordance with section 2661 of this chapter, in which case that section shall control.

Sec. 51. 17 V.S.A. § 2652 is amended to read:

§ 2652. ROAD AND WATER COMMISSIONERS

The ~~board of selectmen~~ selectboard may and, when requested by at least five percent of the legal voters of a town at least ~~40~~ 47 days prior to the annual town meeting, ~~they~~ it shall insert in the warning for the annual town meeting an article on the question of whether ~~or not~~ the town shall elect a road

commissioner or commissioners, or water commissioners, as provided in section 2651 of this ~~title~~ chapter.

Sec. 52. 17 V.S.A. § 2661 is amended to read:

§ 2661. RECONSIDERATION OR RESCISSION OF VOTE

* * *

(c) A question voted on shall not be presented for reconsideration or rescission at more than one subsequent meeting within ~~the succeeding 12 months~~ a one-year period, except with the approval of the legislative body.

(d) For a vote by Australian ballot:

(1) the form of the ballot shall be as follows: “Article 1: [cite the article to be reconsidered as lastly voted].”

(2) absentee ballots for the reconsideration or rescission vote shall be sent to any voter who requested an absentee ballot for the initial vote on the article to be reconsidered or rescinded, whether or not a separate request for an absentee ballot for the reconsideration or rescission vote is submitted by the voter.

* * *

(g) This section shall not apply to nonbinding advisory articles, which shall not be subject to reconsideration or rescission.

* * * Local Elections Using the Australian Ballot System * * *

Sec. 53. 24 V.S.A. § 1755 is amended to read:

§ 1755. SUBMISSION TO VOTERS

* * *

(b) A municipal corporation may not submit to the voters more than twice ~~in the same calendar year or any 12-month~~ any one-year period the proposition of incurring a bonded debt to pay for the same or a similar public improvement, except that a proposition voted on for the first time at an annual meeting that is reconsidered may be voted on in the subsequent annual meeting.

Sec. 54. 17 V.S.A. § 2680 is amended to read:

§ 2680. AUSTRALIAN BALLOT SYSTEM; GENERAL

(a) Application. Unless specifically required by statute, the provisions of the Australian ballot system shall not apply to the annual or special meeting of a municipality unless that municipality, at its annual meeting or at a special meeting called for that purpose, votes to have them apply.

* * *

(c) Budgets.

(1) A vote whether to use the Australian ballot system to establish the budget shall be in substantially the following form:

“Shall (name of municipality) adopt its (name of individual budget article) or (all budget articles) by Australian ballot?”

* * *

(g) Hearing.

(1) Whenever a municipality has voted to adopt the Australian ballot system of voting on any public question or budget, except the budget revote as provided in subsection (c) of this section, the legislative body shall hold a public informational hearing on the question by posting warnings at least 10 days in advance of the hearing in at least two public places within the municipality and in the town clerk’s office.

(2)(A) The hearing shall be held within the 10 days preceding the meeting at which the Australian ballot system is to be used. The legislative body shall be responsible for the administration of this hearing, including the preparation of minutes.

~~(B) The~~ In a town that has voted to start its annual meeting on any of the three days immediately preceding the first Tuesday in March in accordance with subsection 2640(b) of this title, the hearing under this subsection may be held in conjunction with the that meeting held under subsection 2640(c) of this title, in which case the moderator shall preside.

Sec. 55. 17 V.S.A. § 2681 is amended to read:

§ 2681. NOMINATIONS; PETITIONS; CONSENTS

(a)(1)(A) Nominations of the municipal officers shall be by petition. The petition shall be filed with the municipal clerk, together with the endorsement, if any, of any party or parties in accordance with the provisions of this title, ~~no~~ not later than 5:00 p.m. on the sixth Monday preceding the day of the election, which shall be the filing deadline.

(B) A candidate shall be registered to vote in the town he or she is seeking office at or before the time of filing the petition.

(2) The candidate shall also file a written consent to the printing of the candidate’s name on the ballot on or before the filing deadline for petitions as set forth in subdivision (1) of this subsection.

(3) A petition shall contain the name of only one candidate, and the

candidate's name shall appear on the petition as it does on the voter checklist. A voter shall not sign more than one petition for the same office, unless more than one nomination is to be made, in which case the voter may sign as many petitions as there are nominations to be made for the same office.

* * *

* * * Local Election Recounts * * *

Sec. 56. 17 V.S.A. § 2681a is amended to read:

§ 2681a. LOCAL ELECTION BALLOTS

* * *

(e) Public questions shall be written in the form of a question, with boxes indicating a choice of "yes" and "no" directly under or to the right side of the public question. No public question shall pass unless a majority of the votes, excluding blank and ~~spoiled~~ votes overvotes, is cast in favor of the proposition.

Sec. 57. 17 V.S.A. § 2683 is amended to read:

§ 2683. REQUEST FOR A RECOUNT; CANDIDATES

(a) A candidate for local office may request a recount by filing a request in writing with the municipal clerk within 10 days after the election.

(b) If the difference between the number of votes cast for a winning candidate and the number of votes cast for a losing candidate is ~~less than~~ five percent or less of the total votes cast for all the candidates for an office, divided by the number of persons to be elected, that losing candidate shall have the right to have the votes for that office recounted.

Sec. 58. 17 V.S.A. § 2685 is amended to read:

§ 2685. CONDUCT OF RECOUNT

(a)(1) Except as provided in subdivision (2) of this subsection, at the time and place specified by the clerk, the board of civil authority shall break the seal, open the ballot container, and recount the votes pursuant to the procedure set forth in section 2685a of this subchapter and otherwise in the same manner as the votes were counted on the day of the election.

(2) When the ballot for the office is printed on index stock and configured to be readable by vote tabulator, the ~~presiding officer~~ town clerk and board of civil authority shall conduct the recount by vote tabulator, pursuant to the procedure set forth in chapter 51, subchapter 9 of this title to the greatest extent practicable, if:

(A) the candidate who petitions for a recount requests that it be

conducted by vote tabulator;

(B) the board of civil authority, at a meeting held not less than 60 days prior to a local election and warned pursuant to 24 V.S.A. § 801, has voted to require the municipality for which it is elected to use vote tabulators in subsequent recounts; or

(C) the municipality has voted to use vote tabulators in subsequent recounts pursuant to a meeting warned for the purpose.

(b) The petitioner, the opposing candidates, and their designated representatives may inspect the ballots and observe the recount under the guidance of the board.

(c) The board shall certify the result to the town clerk, who shall declare the result.

(d) After the recount, the board shall seal the ballots and other materials back in the containers and the town clerk shall safely store them as provided in section 2590 of this title.

Sec. 59. 17 V.S.A. § 2685a is amended to read:

§ 2685a. PROCEDURE FOR RECOUNT

(a) Storage of ballots; assignment of duties.

(1) The town clerk shall store all ballots, still in their sealed containers, in his or her vault until the day of the recount.

(2)(A) ~~The presiding officer~~ town clerk shall supervise the recount.

(B) If the town clerk is unavailable or is a candidate for the office subject to the recount, the board of civil authority shall appoint a voter of the municipality to perform the duties of the town clerk under this section.

(3)(A) The board of civil authority shall appoint a sufficient number of impartial assistant election officers to perform appropriate tasks ~~that are not practicable for the board of civil authority to perform~~ to conduct the recount.

(B) Each assistant election officer shall be appointed and sworn as set forth in section 2454 of this title.

(4) ~~The presiding officer shall assign members of the board of civil authority to teams of at least four persons, consisting of one caller and one observer, representing different candidates, and one tally person and one double-check person, representing different candidates. Any additional team members shall be additional observers and double-check persons who shall be assigned to ensure that each candidate has one person assigned as either a caller or an observer and one person assigned as either a tally person or a~~

~~double-check person. One team shall be designated as the presiding officer observer team, which shall perform only the functions established under this section for that team. [Repealed.]~~

~~(5) The board of civil authority shall use fresh seals, manila tags, tally sheets, double-check sheets, summary sheets for each polling place, master lists for the entire election to be recounted, and other appropriate material provided by the Secretary of State. [Repealed.]~~

~~(b) Preparation for recount.~~

~~(1) Before the recount begins, the presiding officer town clerk shall explain the recount procedures which that are to be followed and shall answer questions relating to such procedures.~~

~~(2) The recount teams established election officials shall recount the contents of one container before another container is opened and shall recount the contents of all the containers relating to one polling place before moving to those of another polling place.~~

~~(3) For each polling place, the number of containers shall be counted and recorded on the master list.~~

~~(4) Before opening, each container shall be inspected, and if no tag is present, replacement manila tags shall be affixed, specifying the date of election and the name of town and polling place. Likewise, each seal shall be examined to see if it is intact, and the presiding officer shall attach to any bag with a defective seal a tag stating that the seal was defective and containing the information which was contained on the defective seal.~~

~~(5) Uncounted containers shall be kept in one part of the room and moved to the other side as they are counted. Each team shall have a separate table and the presiding officer shall have a separate table, all of which tables shall be spaced apart.~~

~~(6) If there is more than one container from a polling place, the presiding officer shall open first the container which is identified as containing the checklist. Upon opening the first container in the presence of the presiding officer observer team, the presiding officer shall empty the contents onto the presiding officer's table. The presiding officer shall ensure that teams are not given unused ballots, early or absentee ballots which arrived after the close of polls, or ballots spoiled by voters and turned in by voters requesting fresh ballots.~~

~~(c) Examination of checklists.~~

~~(1) The checklist from the first bag shall be assigned to a team. The caller and observer, each acting independently, shall examine the checklist and~~

~~determine how many voters voted at the polling place, repeating the process until they agree on a number or until they agree to disagree on a number.~~

~~(2) Then the checklist shall be examined by the tally person and the double-check person, repeating the process until they agree on a number or they agree to disagree on the number.~~

~~(3) The results obtained from the two subgroups will be compared and if they do not match, the process shall be repeated until there is agreement among all the members of the team or until team members agree to disagree.~~

~~(4) The number finally determined by a majority of team members shall be submitted to the presiding officer in the presence of the presiding officer observer team, together with an indication of the nature and extent of the disagreement. If one or more team members do not agree with the number submitted, the presiding officer shall note on the master list the fact that the number of people appearing as having voted on a specified checklist was subject to dispute. [Repealed.]~~

~~(d) Sorting of ballots.~~

~~(1) Ballots from the first container shall be counted by one team and placed into piles containing 50 ballots each, except where there is a final pile which contains fewer than 50, in which case, the counting team shall affix to the top of the pile a note indicating how many ballots are contained in the pile. All of these ballots then shall be transferred to another team which shall verify that they are in piles of 50 ballots each and that any remaining pile contains the designated number of ballots.~~

~~(2) The teams, except the presiding officer observer team and possibly the team which is processing the checklists, shall proceed to their tables and each team shall get from the presiding officer one pile of ballots, one tally sheet, and one double-check sheet per 50 ballots, unless there are more persons per team who serve as double-check persons, in which case, each such person shall be assigned a double-check sheet. If a team spoils a tally sheet or needs to retally, it must turn in the tally sheet in order to get another one. [Repealed.]~~

~~(e) First tally Ballot review.~~

~~(1) The caller shall call the name of the person voted for and any blank or spoiled ballots. The tally person and the double-check person or persons each shall make a suitable mark for that candidate and any blank or spoiled ballots.~~

~~(2) If the caller and the observer or observers election officials examining a particular ballot do not agree on how a the vote on that ballot should be counted, the entire team all of the board of civil authority members present shall all review the ballot vote, and if all members agree, it the vote~~

shall be counted ~~that way~~ as agreed upon by a majority of those board of civil authority members.

~~(3) If one member of the entire team does not agree, that ballot shall be set aside as a questioned ballot and a copy shall be made, which copy shall be clearly marked on its face identifying it as a copy. Such copies shall be placed on the top of the other ballots and shall remain together with the other ballots. Each original ballot deemed questionable shall be attached to a note which identifies it by town, polling place, and bag seal number. The originals of these questionable ballots shall be clipped to the summary sheet for that polling place and returned to the board of civil authority for a final decision by majority vote.~~

~~(4) After the board of civil authority has rendered a final decision on a given questionable ballot, it shall be returned to the town clerk who shall keep it in a sealed container for a period of two years.~~

~~(5)(2) Write-in votes~~ A write-in vote for a preprinted candidates candidate shall be counted as votes a vote for that candidate.

~~(6) If the tally persons do not agree on the number of votes for a candidate, the ballots shall be retallied until they do agree. Then the team shall notify the presiding officer that it has completed the first recount.~~

(f) ~~Second tally.~~

~~(1) The presiding officer shall attach to the tally and double-check sheets a note which indicates which team members performed which functions in the first recount, and shall provide the team with a new tally sheet and an appropriate number of double-check sheets to match the number of people serving as double-check persons.~~

~~(2) The members of the team then shall switch roles, with callers and observers becoming tally persons and double-check persons, as designated by the presiding officer, and the team shall complete a second recount, following the procedures established for the first recount.~~

~~(3) When the results of the second recount match those of the first, a note shall be attached to the tally and double-check sheets, indicating which persons provided what functions during the second recount.~~

~~(4) Then the team shall take its tally sheets, double-check sheets, and ballots, plus a separate pile of questionable ballots, if any, to the presiding officer.~~

~~(5) Team members, in the presence of the presiding officer observer team, shall read the totals to the presiding officer who, in the view of these observers, shall record the totals on the summary sheet for that polling place.~~

~~(6) After a team has presented its pile of ballots to the presiding officer, it shall be assigned another pile of ballots, until all of the piles from a particular polling place have been recounted two times. [Repealed.]~~

~~(g) Completing the tally.~~

~~(1) After the totals for a polling place have been listed, the presiding officer shall add them up in the presence of the presiding officer observer team, and shall compare the number with the number of voters who voted at that polling place, according to the number obtained from the team that examined the certified checklist. If these numbers differ, the presiding officer shall note the amount of the difference on the summary sheets for that polling place.~~

~~(2) The presiding officer shall return all ballots to the container, seal it, record the seal number on the summary sheet, write "recounted" and specify the date of the recount on the tag, and move it to the other side of the room, making sure that there is never more than one bag open at any one time.~~

~~(3) This procedure shall be repeated for each container, until the results from a polling place have been recounted, and then it shall be repeated until the results from all polling places in a town have been recounted.~~

~~(4) The presiding officer shall add the totals on each summary sheet, affix the presiding officer's seal, and send the summary sheets for all polling places together with the master list and any questionable ballots to the board of civil authority. [Repealed.]~~

~~(h) Other rules for conducting the recount.~~

~~(1) The ~~presiding officer~~ town clerk shall preserve order. If a person, after notice, is persistently disorderly and refuses to withdraw from the premises, the ~~presiding officer~~ town clerk may cause the person to be removed from the premises.~~

~~(2) The ~~presiding officer~~ town clerk shall designate an area within which the recount shall take place. Persons who are not board of civil authority members or appointed impartial election officers shall be permitted to view a recount in progress, but persons not authorized by the ~~presiding officer~~ town clerk shall not be permitted within the area designated by the ~~presiding officer~~ town clerk.~~

~~(3) Candidates and their attorneys shall be given the opportunity to present evidence to the board of civil authority relating to the conduct of the recount. If the board determines that any violations of recount procedures have occurred and that they may have affected the outcome of the recount, a new recount shall be ordered. After such hearings or arguments as may be indicated under the circumstances, the board, within five working days, shall~~

~~issue a judgment, which shall supersede any certificate of election previously issued and shall return to the town clerk questionable ballots which had been forwarded to the board.~~

(i) After the recount.

~~(1)(A) If Except as provided in subdivision (B) of this subdivision (1), if the recount results in a tie, the board of civil authority shall order a recessed election to be held, within three weeks of the recount, on a date set by the board. The only candidates who shall appear on the ballot at the recessed election shall be those who tied in the previous election. The recessed election shall be considered a separate election for the purpose of voter registration under chapter 43 of this title a runoff election shall be conducted in accordance with section 2682b of this chapter.~~

~~(B) If the recount confirms a tie, as to any public question, ~~no~~ recessed a new election shall not be held, and the question shall be certified not to have passed.~~

~~(C) Warnings for a recessed election shall be posted as required by this chapter, except that the warnings shall be posted not less than 10 days before the recessed election. The conduct of a recessed election shall be as provided in this chapter for local elections.~~

~~(2) The town clerk shall send a certified copy of the judgment to the Secretary of State.~~

* * * Local Office Vacancies * * *

Sec. 60. 24 V.S.A. § 963 is amended to read:

§ 963. DUTIES OF ~~SELECTPERSONS~~ SELECTBOARD; SPECIAL MEETING

(a) When a vacancy occurs in any town office, the ~~selectpersons~~ selectboard forthwith by appointment in writing shall fill such vacancy until an election is had; except that in the event of vacancies in a majority of the selectboard at the same time, such vacancies shall be filled by a special town meeting called for that purpose.

(b) ~~Such~~ The selectboard shall file an appointment shall be filed by them made under this section in the office of the town clerk and the town clerk shall duly recorded by the town clerk record it in the book of town records.

(c) If there are no ~~selectpersons~~ selectboard members in office, the Secretary of State shall call a special election to fill any vacancies and for that interim shall appoint and authorize the town clerk or another qualified person to draw orders for payment of continuing obligations and necessary expenses until the vacancies are filled.

* * * Town or Village Reports * * *

Sec. 61. 24 V.S.A. § 1173 is amended to read:

§ 1173. TOWN OR VILLAGE REPORTS

The clerk of a municipality shall supply annually each library in such municipality with two copies of the municipal report, upon its publication. The clerk shall also send to the ~~State Library~~ Vermont State Archives and Records Administration one copy thereof, ~~and one copy each to the Secretary of State, Commissioner of Taxes, State Board of Health, Commissioner for Children and Families, Commissioner of Vermont Health Access, Auditor of Accounts, and Board of Education~~ in a manner prescribed by the State Archivist. Officers making these reports shall supply the clerk of the municipality with the copies necessary for him or her to comply with the provisions of this section and section 1174 of this title.

* * * Presidential Elections * * *

Sec. 62. 17 V.S.A. § 2702 is amended to read:

§ 2702. NOMINATING PETITION

(a) The name of any person shall be printed upon the primary ballot as a candidate for nomination by any major political party if petitions signed by at least 1,000 voters in accordance with sections 2353, 2354, and 2358 of this title are filed with the Secretary of State, together with the written consent of the person to the printing of the person's name on the ballot.

(b) Petitions shall be filed not later than 5:00 p.m. on the ~~first Monday after the first Tuesday~~ 15th day of January ~~December~~ preceding the primary election.

(c) The petition shall be in a form prescribed by the Secretary of State.

(d) A person's name shall not be listed as a candidate on the primary ballot of more than one party in the same election.

(e) Each petition shall be accompanied by a filing fee of \$2,000.00 to be paid to the Secretary of State. However, if the petition of a candidate is accompanied by the affidavit of the candidate, which shall be available for public inspection, that the candidate and the candidate's campaign committee are without sufficient funds to pay the filing fee, the Secretary of State shall waive all but \$300.00 of the payment of the filing fee by that candidate.

Sec. 63. 17 V.S.A. § 2716 is amended to read:

§ 2716. NOTIFICATION TO SECRETARY OF STATE

Not later than 5:00 p.m. on the ~~55th~~ 65th day before the day of the general

election, the chair of the State committee of each major political party shall certify in writing to the Secretary of State the names of the presidential and vice presidential nominees selected at the party's national convention.

* * * Campaign Finance * * *

Sec. 64. 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. 65. 17 V.S.A. § 2944 is amended to read:

§ 2944. ACCOUNTABILITY FOR RELATED EXPENDITURES

(a) A related campaign expenditure made on a candidate's behalf shall be considered a contribution to the candidate on whose behalf it was made.

(b) As used in this section, a "related campaign expenditure made on the candidate's behalf" means any expenditure intended to promote the election of a specific candidate or group of candidates or the defeat of an opposing candidate or group of candidates, if intentionally facilitated by, solicited by, or approved by the candidate or the candidate's committee.

(c)(1) An expenditure made by a political party or by a political committee that recruits or endorses candidates that primarily benefits six or fewer candidates who are associated with the political party or political committee making the expenditure is presumed to be a related expenditure made on behalf of those candidates, except that the acquisition, use, or dissemination of the images of those candidates by the political party or political committee shall not be presumed to be a related expenditure made on behalf of those candidates.

(2) An expenditure made by a political party or by a political committee that recruits or endorses candidates that substantially benefits more than six candidates and facilitates party or political committee functions, voter turnout, platform promotion, or organizational capacity shall not be presumed to be a related expenditure made on a candidate's behalf.

(d)(4) As used in this section, an expenditure by a person shall not be considered a "related expenditure made on the candidate's behalf" if all:

(1)(A) All of the following apply:

(A)(i) the expenditure was made in connection with a campaign event whose purpose was to provide a group of voters with the opportunity to meet a candidate;

(B)(ii) the expenditure was made for:

(i)(I) invitations and any postage for those invitations to invite voters to the event; or

(ii)(II) any food or beverages consumed at the event and any related supplies thereof; and

(C)(iii) the cumulative value of any expenditure by the person made under this subsection does not exceed \$500.00 per event.

(2)(B) For the purposes of this subsection subdivision (1):

(A)(i) if the cumulative value of any expenditure by a person made under this subsection exceeds \$500.00 per event, the amount equal to the difference between the two shall be considered a "related expenditure made on the candidate's behalf"; and

(B)(ii) any reimbursement to the person by the candidate for the costs of the expenditure shall be subtracted from the cumulative value of the expenditures.

(2) All of the following apply:

(A) the expenditure is for an electioneering communication that promotes or supports all of the candidates who are named or pictured in it and no other candidates, and those candidates named or pictured:

(i) have filed or been nominated as described in subdivision 2901(1)(B) of this chapter for a legislative, county, or local office;

(ii) are on the same ballot for the same election; and

(iii) each make an expenditure for the electioneering communication of an equal amount in order to share the cost of the electioneering communication equally; and

(B) no other person has made an expenditure for the electioneering communication.

(e)(1) A candidate may seek a determination that an expenditure is a related expenditure made on behalf of an opposing candidate by filing a petition with the Superior Court of the county in which either candidate resides.

(2) Within 24 hours of the filing of a petition, the ~~Court~~ court shall schedule the petition for hearing. Except as to cases the ~~Court~~ court considers of greater importance, proceedings before the Superior Court, as authorized by this section, and appeals from there take precedence on the docket over all other cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(3) The findings and determination of the ~~Court~~ court shall be prima facie evidence in any proceedings brought for violation of this chapter.

(f) The Secretary of State may adopt rules necessary to administer the provisions of this section.

Sec. 67. 17 V.S.A. § 2973 is amended to read:

§ 2973. SPECIFIC IDENTIFICATION REQUIREMENTS FOR RADIO, TELEVISION, OR INTERNET COMMUNICATIONS

(a) In addition to the identification requirements set forth in section 2972 of this subchapter, a person, candidate, political committee, or political party that makes an expenditure for an electioneering communication shall include in any communication ~~which~~ that is transmitted through radio, television, or online video, in a clearly spoken manner, an audio statement of the name and title of the person who paid for the communication and that the person paid for the communication.

(b) If the person who paid for the communication is not a natural person, the audio statement required by this section shall include the name of that non-natural person and the name and title of the treasurer, in the case of a candidate's committee, political committee or political party, or the principal officer, in the case of the any other non-natural person.

* * * Effective Date * * *

Sec. 68. 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 miscellaneous amendments to election law.

(Committee vote: 4-1-0)

(For House amendments, see House Journal for March 28, 2017, page 518.)

House Proposal of Amendment

S. 10

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

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

* * * Contaminated Potable Water Supplies * * *

Sec. 1. 10 V.S.A. § 6615e is added to read:

§ 6615e. RELIEF FOR CONTAMINATED POTABLE WATER SUPPLIES

(a) Definitions. As used in this section:

(1) “Public water system” means any system or combination of systems owned or controlled by a person that provides drinking water through pipes or other constructed conveyances to the public and that has at least 15 service connections or serves an average of at least 25 individuals daily for at least 60 days out of the year. A “public water system” includes all collection, treatment, storage, and distribution facilities under the control of the water supplier and used primarily in connection with the system, and any collection or pretreatment storage facilities not under the control of the water supplier that are used primarily in connection with the system. “Public water system” shall also mean any part of a system that does not provide drinking water, if use of such a part could affect the quality or quantity of the drinking water supplied by the system. “Public water system” shall also mean a system that bottles drinking water for public distribution and sale.

(2) “Public community water system” means a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

(b) Extension of public community water system.

(1) The Secretary, after due consideration of cost, may initiate a proceeding under this section to determine whether a person that released perfluorooctanoic acid into the air, groundwater, surface water, or onto the land is liable for the costs of extending the water supply of a public water system to an impacted property. A person who released perfluorooctanoic acid shall be liable for the extension of a municipal water line when:

(A) the property is served by a potable water supply regulated under chapter 64 of this title;

(B) the Secretary has determined that the potable water supply on the property:

(i) is a failed supply under chapter 64 of this title due to perfluorooctanoic acid contamination; or

(ii) is likely to fail due to contamination by perfluorooctanoic acid due to the proximity of the potable water supply to other potable water supplies contaminated by perfluorooctanoic acid or due to other relevant factors; and

(C) the person the Secretary determined released perfluorooctanoic acid into the air, groundwater, surface water, or onto the land is a cause of or contributor to the perfluorooctanoic acid contamination or likely contamination of the potable water supply.

(2) A person liable for the extension of a public water system under this section shall be strictly, jointly, and severally liable for all costs associated with that public water system extension. The remedy under this section is in addition to those provided by existing statutory or common law.

(c) Liability payment.

(1) Following notification of liability by the Secretary, a person liable under subsection (b) of this section for the extension of the water supply of a public water system shall pay the owner of the public water system for the extension of the water supply within 30 days of receipt of a final engineering design or within an alternate time frame ordered by the Secretary.

(2) If the person liable for the extension of the water supply does not pay the owner within the time frame required under subdivision (1) of this subsection, the person shall be liable for interest on the assessed cost of the extension of the water supply.

(d) Available defenses; rights. All defenses to liability and all rights to contribution or indemnification available to a person under section 6615 of this title are available to a person subject to liability under this section.

Sec. 2. APPLICATION OF LIABILITY

(a) 10 V.S.A. § 6615e, enacted under Sec. 1 of this act, shall apply to any determination of liability made by the Secretary of Natural Resources under 10 V.S.A. § 6615e after the effective date of the section.

(b) Notwithstanding any contrary provision of 1 V.S.A. § 214, 10 V.S.A. § 6615e shall apply to any relevant release of perfluorooctanoic acid regardless of the date of the relevant release, including releases that occurred prior to the effective date of 10 V.S.A. § 6615e.

* * * Hazardous Materials * * *

Sec. 3. 10 V.S.A. § 6602(16) is amended to read:

(16)(A) “Hazardous material” means all petroleum and toxic, corrosive, or other chemicals and related sludge included in any of the following:

(i) any substance defined in section 101(14) of the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980;

(ii) petroleum, including crude oil or any fraction thereof; ~~or~~

(iii) hazardous wastes, as determined under subdivision (4) of this section; or

(iv) a chemical or substance that, when released, poses a risk to human health or other living organisms and that is listed by the Secretary by rule.

(B) “Hazardous material” does not include herbicides and pesticides when applied consistent with good practice conducted in conformity with federal, State, and local laws and regulations and according to manufacturer’s instructions. Nothing in this subdivision shall affect the authority granted and the limitations imposed by section 6608a of this title.

Sec. 4. 10 V.S.A. § 6602(12) is amended to read:

(12) “Disposal” means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any ground or surface waters.

* * * Brownfields * * *

Sec. 5. 10 V.S.A. § 6652(b) is amended to read:

(b) Upon receipt of the completion report, the Secretary shall determine whether additional work is required in order to complete the plan. The applicant shall perform any additional activities necessary to complete the corrective action plan as required by the Secretary and shall submit a new completion report. When the Secretary determines that the applicant has successfully completed the corrective action plan and paid all fees and costs due under this subchapter, the Secretary shall issue a certificate of completion, which certifies that the work is completed. The certificate of completion shall include a description of any land use restrictions and other conditions required by the corrective action plan. The Secretary may establish land use restrictions in the certificate of completion for a property, but the Secretary shall not

acquire interests in the property in order to establish a land use restriction.

Sec. 6. 10 V.S.A. § 6653 is amended to read:

§ 6653. RELEASE FROM LIABILITY; PERSONAL RELEASE FROM LIABILITY

(a) An applicant who has obtained a certificate of completion pursuant to section 6652 of this title and successor owners of the property included in the certificate of completion who are not otherwise liable under section 6615 for the release or threatened release of a hazardous material at the property shall not be liable under subdivision 6615(a)(1) of this title for any of the following:

(1) A release or threatened release that existed at the property at the time of the approval of the corrective action plan and complies with one or both of the following:

(A) was discovered after the approval of the corrective action plan by means that were not recognized standard methods at the time of approval of the corrective action plan;

(B) the material was not regulated as hazardous material until after approval of the corrective action plan.

(2) Cleanup after approval of the corrective action plan was done pursuant to more stringent cleanup standards effective after approval of the corrective action plan.

(3) Natural resource damages pursuant to section 6615d of this title, provided that the applicant did not cause the release that resulted in the damages to natural resources.

* * *

(c) A release from liability under this section or forbearance from action provided by section 6646 of this title does not extend to any of the following:

(1) A release or threatened release of a hazardous material that was not present at the time the applicant submitted an application pursuant to this subchapter where the release or threatened release:

(A) has not been addressed under an amended corrective action plan approved by the Secretary; or

(B) was caused by intentional or reckless conduct by the applicant or agents of the applicant.

(2) Failure to comply with the general obligations established in section 6644 of this title.

(3) A release that occurs subsequent to the issuance of a certificate of

completion.

(4) Failure to comply with the use restrictions contained within the certificate of completion for the site issued pursuant to subsection 6652(b) of this title.

* * *

* * * Groundwater Classification * * *

Sec. 7. 10 V.S.A. § 1392(d) is amended to read:

~~(d) The groundwater management strategy, including groundwater classification and associated technical criteria and standards, shall be adopted as a rule in accordance with the provisions of 3 V.S.A., chapter 25. The secretary shall file any final proposed rules regarding the groundwater management strategy, with the natural resources board not less than 30 days prior to filing with the legislative committee on administrative rules. The board shall review the final proposed rules and comment regarding their compatibility with the Vermont water quality standards and the objectives of the Vermont Water Pollution Control Act. The secretary shall include the natural resources board's comments in filing the final proposed rules with the legislative committee on administrative rules.~~

Sec. 8. 10 V.S.A. § 1394(a) is amended to read:

(a) The state State adopts, for purposes of classifying its groundwater, the following classes and definitions thereof:

* * *

(4) Class IV. Not suitable as a source of potable water but suitable for some agricultural, industrial and commercial use, provided that the Secretary may authorize, subject to conditions, use as a source of potable water supply or other use under a reclassification order issued for the aquifer.

* * * Public Trust Lands * * *

Sec. 9. ADDITIONAL AUTHORIZED USE; PUBLIC TRUST LANDS

(a) The General Assembly finds that:

(1) the General Assembly has the authority to authorize public uses of filled public trust lands in the City of Burlington; and

(2) the use of the filled public trust lands in the City of Burlington authorized by this act is consistent with the public trust doctrine.

(b) In addition to the uses authorized by the General Assembly in 1990 Acts and Resolves No. 274, 1991 Acts and Resolves No. 53, 1996 Acts and Resolves No. 87, and 1997 Acts and Resolves No. 22, the filled public trust

lands within the City of Burlington that are located north of the centerline of Maple Street extending north to the northern terminus of the Lake Street extension completed in 2016 and that extend to the waters of Lake Champlain may be utilized for public markets that benefit Vermont's public and that are available to the public on an open and nondiscriminatory basis.

(c) Any use authorized under this act is subject to all applicable requirements of law.

* * * Effective Date * * *

Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.

**House Proposal of Amendment to Senate Proposal of Amendment to
House Proposal of Amendment**

S. 23

An act relating to juvenile jurisdiction

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

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) All youthful offender proceedings shall be confidential.

House Proposal of Amendment

S. 52

An act relating to the Public Service Board and its proceedings.

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

* * * Preapplication Submittals; Energy Facilities * * *

Sec. 1. 30 V.S.A. § 248(f) is amended to read:

(f) However, plans for the construction of such a facility within the State must be submitted by the petitioner to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement.

(1) ~~Such~~ The municipal or regional planning commission may take one or more of the following actions:

(A) ~~hold~~ Hold a public hearing on the proposed plans. The planning commission may request that the petitioner or the Department of Public Service, or both, attend the hearing. The petitioner and the Department each shall have an obligation to comply with such a request. The Department shall consider the comments made and information obtained at the hearing in making recommendations to the Board on the application and in determining whether to retain additional personnel under subdivision (1)(B) of this subsection.

(B) Request that the Department of Public Service exercise its authority under section 20 of this title to retain experts and other personnel to review the proposed facility. The Department may commence retention of these personnel once the petitioner has submitted proposed plans under this subsection. The Department may allocate the expenses incurred in retaining these personnel to the petitioner in accordance with section 21 of this title. Granting a request by a planning commission pursuant to this subdivision shall not oblige the Department or the personnel it retains to agree with the position of the commission.

(C) ~~Such commissions shall make~~ Make recommendations, if any, to the Public Service Board and to the petitioner at least seven days prior to filing of the petition with the Public Service Board within 40 days of the petitioner's submittal to the planning commission under this subsection.

(D) Once the petition is filed with the Public Service Board, make recommendations to the Board by the deadline for submitting comments or testimony set forth in the applicable provision of this section, Board rule, or scheduling order issued by the Board.

(2) The petitioner's application shall address the substantive written comments related to the criteria of subsection (b) of this section received by the petitioner within 45 days of the submittal made under this subsection and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

* * * Facility Siting; Service of Application When Determined Complete;
Extension of Telecommunications Siting Authority * * *

Sec. 2. 30 V.S.A. § 246 is amended to read:

§ 246. TEMPORARY SITING OF METEOROLOGICAL STATIONS

(a) As used in this section, a "meteorological station" consists of one temporary tower, which may include guy wires, and attached instrumentation to collect and record wind speed, wind direction, and atmospheric conditions.

(b) The Public Service Board shall establish by rule or order standards and procedures governing application for, and issuance or revocation of, a

certificate of public good for the temporary installation of one or more meteorological stations under the provisions of section 248 of this title. A meteorological station shall be deemed to promote the public good of the State if it is in compliance with the criteria of this section and the Board rules or orders. An applicant for a certificate of public good for a meteorological station shall be exempt from the requirements of subsection 202(f) of this title.

(c) In developing rules or orders, the Board:

(1) Shall develop a simple application form and shall require that ~~completed applications be filed~~ the applicant first file the application with the Board, and that, within two business days of notification from the Board that the application is complete, the applicant serve copies of the complete application on the Department of Public Service, the Agency of Natural Resources, the Agency of Transportation, and the municipality in which the meteorological station is proposed to be located.

(2) Shall require that if no objections are filed within 30 days of the ~~Board's receipt of a complete application~~ date of service of the complete application under subdivision (1) of this subsection, and the Board determines that the applicant has met all of the requirements of section 248 of this title, the certificate of public good shall be issued for a period that the Board finds reasonable, but in no event for more than five years. Upon request of an applicant, the Board may renew a certificate of public good. Upon expiration of the certificate, the meteorological station and all associated structures and material shall be removed, and the site shall be restored substantially to its preconstruction condition.

(3) May waive the requirements of section 248 of this title that are not applicable to meteorological stations, including criteria that are generally applicable to public service companies as defined in this title. The Board shall not waive review regarding whether construction will have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, and the public health and safety.

(4) Shall seek to simplify the application and review process, as appropriate, in conformance with this section.

* * *

Sec. 3. 30 V.S.A. § 248(a)(4) is amended to read:

(4)(A) With respect to a facility located in the State, the Public Service Board shall hold a nontechnical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located. From the comments made at the public hearing, the Board shall derive areas of inquiry that are

relevant to the findings to be made under this section and shall address each such area in its decision. Prior to making findings, if the record does not contain evidence on such an area, the Board shall direct the parties to provide evidence on the area. This subdivision does not require the Board to respond to each individual comment.

(B) The Public Service Board shall hold technical hearings at locations which it selects.

(C) ~~At the time of filing its application with the Board, copies shall be given by the petitioner to~~ Within two business days of notification from the Board that the petition is complete, the petitioner shall serve copies of the complete petition on the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health, Agency of Natural Resources, Historic Preservation Division, Agency of Transportation, Agency of Agriculture, Food and Markets, and to the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

(D) Notice of the public hearing shall be published and maintained on the Board's website for at least 12 days before the day appointed for the hearing. Notice of the public hearing shall be published once in a newspaper of general circulation in the county or counties in which the proposed facility will be located, and the notice shall include an Internet address where more information regarding the proposed facility may be viewed.

* * *

Sec. 4. 30 V.S.A. § 248(j)(2) is amended to read:

(2) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition. ~~The~~ Within two business days of notification by the Board that the filing is complete, the party shall serve copies of the complete filing on the parties specified in subdivision (a)(4)(C) of this section and the Board shall give written notice of the proposed certificate and its determination that the filing is complete to the those parties specified in ~~subdivision (a)(4)(C) of this section,~~ to any public interest organization that has in writing requested notice of applications to proceed under this subsection, and to any other person found by the Board to have a substantial interest in the matter. Such notice also shall be published on the Board's website within two days of issuing the determination that the filing is complete and shall request comment within 28 30 days of the initial publication date of service of the complete filing on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the

Board finds that the petition raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

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

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

* * *

(e) Notice. No less than 60 days prior to filing an application for a certificate of public good under this section, the applicant shall serve written notice of an application to be filed with the Board pursuant to this section to the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities; the Secretary of Natural Resources; the Secretary of Transportation; the Division for Historic Preservation; the Commissioner of Public Service and its Director for Public Advocacy; the Natural Resources Board if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151; and the landowners of record of property adjoining the project sites. In addition, at least one copy of each application shall be filed with each of these municipal and regional planning commissions. The notices to the legislative body and planning commission of the municipality shall attach a statement that itemizes the rights and opportunities available to those bodies under subdivisions (c)(2) and (e)(2) of this section and under subsections (m), (n), and (o) of this section and informs them of the guide published under subsection (p) of this section and how to obtain a copy of that guide.

* * *

(i) Sunset of Board authority. Effective on July 1, ~~2017~~ 2020, no new applications for certificates of public good under this section may be considered by the Board.

(j) Telecommunications facilities of limited size and scope.

* * *

(2)(A) Any ~~party~~ person seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its application, ~~and provide~~. Within two business days of notification from the Board that the filing is complete, the applicant shall serve notice and a copy of the application, proposed certificate of public good, and proposed findings of fact to on the Commissioner of Public Service and its Director for Public Advocacy, the Secretary of Natural Resources, the Division for Historic Preservation, the Natural Resources Board

if the application concerns a telecommunications facility for which a permit previously has been issued under 10 V.S.A. chapter 151, and each of the legislative bodies and municipal and regional planning commissions in the communities in which the applicant proposes to construct or install facilities. ~~At the same time the applicant files the documents specified in this subdivision with the Board~~ Within two business days of notification from the Board that the filing is complete, the applicant also shall ~~give~~ serve written notice of the proposed certificate ~~to~~ on the landowners of record of property adjoining the project site or sites unless the Board has previously determined on request of the applicant that good cause exists to waive or modify the notice requirement with respect to such landowners. Such notice shall request comment to the Board ~~within 21~~ 30 days of the ~~notice~~ date of service on the question of whether the application raises a significant issue with respect to the substantive criteria of this section. If the Board finds that an application raises a significant issue with respect to the substantive criteria of this section, the Board shall hear evidence on any such issue.

* * *

(C) If the Board accepts a request to consider an application under the procedures of this subsection, then unless the Public Service Board subsequently determines that an application raises a significant issue, the Board shall issue a final determination on an application ~~filed pursuant to this subsection within 45 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules,~~ within 45 60 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete. If, subsequent to acceptance of an application under this subsection, the Board rules that an application raises a significant issue, it shall issue a final determination on an application filed pursuant to this subsection ~~within 90 days of its filing or, if the original filing did not substantially comply with the Public Service Board's rules,~~ within 90 days of the date on which the Clerk of the Board notifies the applicant that the filing is complete.

* * *

(k) De minimis modifications. An applicant intending to make a de minimis modification of a telecommunications facility shall provide written notice of its intent, including a description of the de minimis modification, its plans for the de minimis modification, and its certification that the project constitutes a de minimis modification under this section, to the following: the landowner of record of the property on which the facility is located; the legislative body of the municipality in which the applicant proposes to undertake such limited modifications to the facility; and the Commissioner of Public Service and his or her Director for Public Advocacy. Unless an objection to the classification of a proposed project as a de minimis

modification is filed with the Board within ~~24~~ 30 days of this notice, a certificate of public good shall be issued. Objections may be filed only by persons entitled to notice of this proposed project pursuant to this subsection. If an objection of the classification of the proposed project as a de minimis modification is timely filed with the Board, the Board may determine whether the intended project meets the definition of de minimis modification established in subdivision (b)(2) of this section.

* * *

(o) Retention; experts. The Department of Public Service may retain experts and other personnel as identified in section 20 of this title to provide information essential to a full consideration of an application for a certificate of public good under this section. The Department may allocate the expenses incurred in retaining these personnel to the applicant in accordance with section 21 of this title. The Department may commence retention of these personnel once the applicant has filed the ~~45-day~~ 60-day notice under subsection (e) of this section. A municipal legislative body or planning commission may request that the Department retain these personnel. Granting such a request shall not oblige the Department or the personnel it retains to agree with the position of the municipality.

* * *

* * * Notice of Petitions for a CPG to Do Business * * *

Sec. 6. 30 V.S.A. § 231 is amended to read:

§ 231. CERTIFICATE OF PUBLIC GOOD; ABANDONMENT OF SERVICE; HEARING

(a) A person, partnership, unincorporated association, or previously incorporated association, ~~which~~ that desires to own or operate a business over which the Public Service Board has jurisdiction under the provisions of this chapter shall first petition the Board to determine whether the operation of such business will promote the general good of the State, and shall at that time file a copy of any such petition with the Department. The Department, within 12 days, shall review the petition and file a recommendation regarding the petition in the same manner as is set forth in subsection 225(b) of this title. Such recommendation shall set forth reasons why the petition shall be accepted without hearing or shall request that a hearing on the petition be scheduled. If the Department requests a hearing on the petition, or, if the Board deems a hearing necessary, it shall appoint a time and place in the county where the proposed corporation is to have its principal office for hearing the petition, ~~and shall make an order for the publication of the substance thereof and the time and place of hearing two weeks successively in a newspaper of general~~

~~circulation in the county to be served by the petitioner, the last publication to be at least seven days before the day appointed for the hearing. At least 12 days before this hearing, notice of the hearing shall be published on the Board's website and once in a newspaper of general circulation in the county in which the hearing will occur. The website notice shall be maintained through the date of the hearing. The newspaper notice shall include an Internet address where more information regarding the petition may be viewed.~~ The Director for Public Advocacy shall represent the public at such the hearing. If the Board finds that the operation of such business will promote the general good of the State, it shall give such person, partnership, unincorporated association, or previously incorporated association a certificate of public good specifying the business and territory to be served by such petitioners. For good cause, after opportunity for hearing, the Board may amend or revoke any certificate awarded under the provisions of this section. If any such certificate is revoked, the person, partnership, unincorporated association, or previously incorporated association shall no longer have authority to conduct any business which is subject to the jurisdiction of the Board whether or not regulation thereunder has been reduced or suspended, under section 226a or 227a of this title.

* * *

* * * Enforcement * * *

Sec. 7. 30 V.S.A. § 2 is amended to read:

§ 2. DEPARTMENT POWERS

* * *

(h) The Department shall investigate when it receives a complaint that there has been noncompliance with section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections, including a complaint of such noncompliance received pursuant to section 208 of this title or the complaint protocol established under 2016 Acts and Resolves No. 130, Sec. 5c.

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

§ 30. PENALTIES; AFFIDAVIT OF COMPLIANCE

* * *

(h) In accordance with the process set forth in this subsection, the Department may issue an administrative citation to a person the Department believes after investigation violated section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections.

(1) An administrative citation, whether draft or final, shall:

(A) state each provision of statute and rule and each condition of a certificate of public good alleged to have been violated;

(B) include a concise statement of the facts giving rise to the alleged violation and the evidence supporting the existence of those facts;

(C) request that the person take the remedial action specified in the notice or pay a civil penalty of not more than \$5,000.00 for the violation, or both; and

(D) if remedial action is requested, state the reasons for seeking the action.

(2) The Department shall initiate the process by issuing a draft administrative citation to the person and sending a copy to each municipality in which the person's facility is located, each adjoining property owner to the facility, the complainant if any, and, for alleged violations of the facility's certificate of public good, each party to the proceeding in which the certificate was issued.

(A) At the time the draft citation is issued, the Department shall file a copy with the Board and post the draft citation on its website.

(B) Commencing with the date of issuance, the Department shall provide an opportunity of 30 days for public comment on the draft citation. The Department shall include information on this opportunity in the draft citation.

(C) Once the public comment period closes, the Department:

(i) Shall provide the person and the Board with a copy of each comment received.

(ii) Within 15 days of the close of the comment period, may file a revised draft citation with the Board. The revised draft citation may be accompanied by a stipulation or agreed settlement between the person and the Department with a request for Board approval.

(D) The Board may on its own initiative open a proceeding to investigate the violation alleged in the draft citation. The Board shall take any such action within 25 days of the close of the public comment period, or the filing of a revised draft citation, whichever is later. Such a Board proceeding shall supersede the draft citation.

(3) If the Board has not opened a proceeding pursuant to subdivision (2)(D) of this subsection, the Department may issue a final administrative citation to the person. Within 30 days of receipt of a final administrative

citation, the person shall respond in one of the following ways:

(A) Request a hearing before the Board on the existence of the alleged violation, the proposed penalty, and the proposed remedial action.

(B) Pay any civil penalty set forth in the notice and agree to undertake such remedial action as is set forth in the notice and submit to the Department for its approval a plan for compliance. In such a case, the final administrative citation shall be enforceable in the same manner as an order of the Board.

(C) Decline to contest the existence of the alleged violation and request a hearing on either the proposed penalty or remedial action, or both. When exercising this option, a person may agree to either the proposed penalty or remedial action and seek a hearing only on the penalty or action with which the person disagrees.

(4) When a person requests a hearing under subdivision (3) of this subsection, the Board shall open a proceeding and conduct a hearing in accordance with the provisions of this section on the alleged violation and such remedial action and penalty as are set forth in the notice. Notwithstanding any contrary provision of this section, a penalty under this subdivision (4) shall not exceed \$5,000.00.

(5) If a person pays the civil penalty set forth in a final administrative citation, then the Department shall be precluded from seeking and the Board from imposing additional civil penalties for the same alleged violation unless the violation is continuing or is repeated.

(6) If a person agrees to undertake the remedial action set forth in a final administrative citation, failure to undertake the action or comply with a compliance plan approved by the Department shall constitute a separate violation.

(7) The Board may approve disposition of a final administrative citation by stipulation or agreed settlement submitted before entry of a final order.

(8) Penalties assessed under this subsection shall be deposited in the General Fund.

* * * Name Change to Public Utility Commission * * *

Sec. 9. 30 V.S.A. § 3 is amended to read:

§ 3. PUBLIC SERVICE BOARD UTILITY COMMISSION

(a) The Vermont Public Service Board Utility Commission shall consist of a Chair and two members. The Chair and each member shall not be required to be admitted to the practice of law in this State.

(b) The Chair shall be nominated, appointed, and confirmed in the manner of a Superior judge.

(c) Members of the Board Commission other than the Chair shall be appointed in accordance with this subsection. Whenever a vacancy occurs, public announcement of the vacancy shall be made. The Governor shall submit at least five names of potential nominees to the Judicial Nominating Board for review. The Judicial Nominating Board shall review the candidates in respect to judicial criteria and standards only and shall recommend to the Governor those candidates the Board considers qualified. The Governor shall make the appointment from the list of qualified candidates. The appointment shall be subject to the consent of the Senate.

(d) The term of each member shall be six years. Any appointment to fill a vacancy shall be for the unexpired portion of the term vacated. A member wishing to succeed himself or herself in office may seek reappointment under the terms of this section.

(e) Notwithstanding 3 V.S.A. § 2004, or any other provision of law, members of the Board Commission may be removed only for cause. When a Board Commission member who hears all or a substantial part of a case retires from office before such case is completed, he or she shall remain a member of the Board Commission for the purpose of concluding and deciding such case, and signing the findings, orders, decrees, and judgments therein. A retiring Chair shall also remain a member for the purpose of certifying questions of law if appeal is taken. For such service, he or she shall receive a reasonable compensation to be fixed by the remaining members of the Board Commission and necessary expenses while on official business.

(f) A case shall be deemed completed when the Board Commission enters a final order therein even though such order is appealed to the Supreme Court and the case remanded by that court to the Board Commission. Upon remand the Board Commission then in office may in its discretion consider relevant evidence including any part of the transcript of testimony in the proceedings prior to appeal.

(g) The Chair shall have general charge of the offices and employees of the Board Commission.

Sec. 10. 30 V.S.A. § 7001(1) is amended to read:

(1) “~~Board~~” “Commission” means the Public Service ~~Board~~ Utility Commission under section 3 of this title.

Sec. 11. 30 V.S.A. § 8002(1) is amended to read:

(1) “~~Board~~” “Commission” means the Public Service ~~Board~~ Utility Commission under section 3 of this title, ~~except when used to refer to the~~

Clean Energy Development Board.

Sec. 12. REVISION AUTHORITY

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall make the following revisions throughout the statutes as needed for consistency with Secs. 9–11 of this act, as long as the revisions have no other effect on the meaning of the affected statutes:

(1) replace “Public Service Board” with “Public Utility Commission”; and

(2) replace “Board” with “Commission” when the existing term “Board” refers to the Public Service Board.

Sec. 13. RULES; NAME CHANGE

(a) The rules of the Public Service Board in effect on July 1, 2017 shall become rules of the Vermont Public Utility Commission (the Commission).

(b) In those rules, the Commission is authorized to change all references to the Public Service Board so that they refer to the Commission. Unless accompanied by one or more other revisions to the rules, such a change need not be made through the rulemaking process under the Administrative Procedure Act.

* * * 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 make all reasonable efforts to ensure that the location of each hearing is sufficient to accommodate all members of the public seeking to attend.

(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.

* * * Remote Location Access by Citizens to PSB Hearings * * *

Sec. 14. PLAN; CITIZENS' ACCESS TO PSB HEARINGS FROM
REMOTE LOCATIONS

(a) On or before December 15, 2017, the Division for Telecommunications and Connectivity within the Department of Public Service, in consultation with relevant organizations such as the Vermont Access Network and Vermont access management organizations, shall submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy a plan to achieve citizen access to hearings and workshops of the Public Service Board from remote locations across the State. The access shall include interactive capability and the ability to use multiple remote locations simultaneously. The plan may build on the Department's Vermont Video Connect proposal described in the Report to the General Assembly by the Vermont Interactive Technologies Working Group dated Dec. 9, 2015, submitted pursuant to 2015 Acts and Resolves No. 58, Sec. E.602.1.

(b) The plan shall include each of the following:

- (1) assessment of cost-effective interactive video technologies;
- (2) identification of at least five locations across Vermont that are willing and able to host the access described in subsection (a) of this section;
- (3) the estimated capital costs of providing such access; and
- (4) the estimated operating costs for hosting and connecting.

* * * Citizen Access to Public Service Board; Implementation Report * * *

Sec. 15. REPORT; IMPLEMENTATION OF WORKING GROUP
RECOMMENDATIONS

On or before December 15, 2017, the Public Service Board shall submit to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy a report on the progress made in implementing the recommendations of the Access to Public Service Board Working Group created by 2016 Acts and Resolves No. 174, Sec. 15, including those recommendations that the Group identified as not requiring statutory change.

* * * Appliance Efficiency * * *

Sec. 16. PURPOSE

In light of the findings set forth at 9 V.S.A. § 2792, Secs. 17 through 21 of this act adopt federal appliance and lighting efficiency standards in effect on

January 19, 2017 so that the same standards will be in place in Vermont should the federal standards be repealed or voided. The act also adopts federal standards for general service lighting that have been adopted by the U.S. Department of Energy and are scheduled to come into effect on January 20, 2020, again so that the same standards will be in place in Vermont. The act does not adopt standards for other products or standards for a product that are different from the federal standards.

Sec. 17. 9 V.S.A. § 2793 is amended to read:

§ 2793. DEFINITIONS

As used in this chapter:

* * *

(15) “General service lamp” has the same meaning as set forth in the action published at 82 Fed. Reg. 7276, 7321-22 (January 19, 2017) and modified by the action published at 82 Fed. Reg. 7322, 7333 (January 19, 2017).

Sec. 18. 9 V.S.A. § 2794 is amended to read:

§ 2794. SCOPE

(a) The provisions of this chapter apply to the following types of new products sold, offered for sale, or installed in the State:

- (1) Medium voltage dry-type distribution transformers.
- (2) Metal halide lamp fixtures.
- (3) Residential furnaces and residential boilers.
- (4) Single-voltage external AC to DC power supplies.
- (5) State-regulated incandescent reflector lamps.
- (6) General service lamps.

(7) Each other product for which the Commissioner is required to adopt an efficiency or water conservation standard by rule pursuant to section 2795 of this title.

(8) Any other product that may be designated by the Commissioner in accordance with section 2797 of this title.

(b) The provisions of this chapter do not apply to:

(1) New products manufactured in the State and sold outside the State and the equipment used in manufacturing those products.

(2) New products manufactured outside the State and sold at wholesale

inside the State for final retail sale and installation outside the State.

(3) Products installed in mobile manufactured homes at the time of construction.

(4) Products designed expressly for installation and use in recreational vehicles.

Sec. 19. 9 V.S.A. § 2795 is amended to read:

§ 2795. EFFICIENCY AND WATER CONSERVATION STANDARDS

~~Not later than June 1, 2007, the~~ The Commissioner shall adopt rules in accordance with the provisions of 3 V.S.A. chapter 25 establishing minimum efficiency standards for the types of new products set forth in section 2794 of this title. The rules shall provide for the following minimum efficiency standards for products sold or installed in this State:

* * *

(6) In the rules, the Commissioner shall adopt minimum efficiency and water conservation standards for each product that is subject to a standard under 10 C.F.R. §§ 430 and 431 as those provisions existed on January 19, 2017. The minimum standard and the testing protocol for each product shall be the same as adopted in those sections of the Code of Federal Regulations.

(7) In the rules, the Commissioner shall adopt a minimum efficacy standard for general service lamps of 45 lumens per watt, when tested in accordance with 10 C.F.R. § 430.23(gg) as that provision existed on January 19, 2017.

Sec. 20. 9 V.S.A. § 2796 is amended to read:

§ 2796. IMPLEMENTATION

* * *

(f)(1) When federal preemption under 42 U.S.C. § 6297 applies to a standard adopted pursuant to this chapter for a product, the standard shall become enforceable on the occurrence of the earliest of the following:

(A) The federal energy or water conservation standard for the product under 42 U.S.C. chapter 77 is withdrawn, repealed, or otherwise voided. However, this subdivision (A) shall not apply to any federal energy or water conservation standard set aside by a court of competent jurisdiction upon the petition of a person who will be adversely affected, as provided in 42 U.S.C. § 6306(b).

(B) A waiver of federal preemption is issued pursuant to 42 U.S.C. § 6297.

(2) The federal standard for general service lamps shall be considered to be withdrawn, repealed, or otherwise voided within the meaning of this subsection if it does not come into effect on January 20, 2020 pursuant to the actions published at 82 Fed. Reg. 7276 and 7333 (January 19, 2017).

(3) When a standard adopted pursuant to this chapter becomes enforceable under this subsection, a person shall not sell or offer for sale in the State a new product subject to the standard unless the efficiency or water conservation of the new product meets or exceeds the requirements set forth in the standard.

Sec. 21. RULE ADOPTION; SCHEDULE; REPORT

(a) Rule adoption; schedule.

(1) On or before August 1, 2017, the Commissioner of Public Service shall file with the Secretary of State proposed rules to effect Sec. 19 of this act.

(2) On or before April 1, 2018, the Commissioner shall finally adopt these rules, unless the Legislative Committee on Administrative Rules extends this date pursuant to 3 V.S.A. § 843(c).

(b) Reports.

(1) On or before December 15, 2017, the Commissioner of Public Service shall file a progress report on the rulemaking required by this act. The report shall attach the proposed rules as filed with the Secretary of State.

(2) On or before December 15, 2018, the Commissioner of Public Service shall file a further progress report on the rulemaking required by this act. The report shall attach the rules as finally adopted by the Commissioner.

* * * Energy Storage * * *

Sec. 22. ENERGY STORAGE; REPORT

(a) Definitions. As used in this section, “energy storage” means a system that uses mechanical, chemical, or thermal processes to store energy for later use.

(b) Report. On or before November 15, 2017, the Commissioner of Public Service shall submit a report on the issue of deploying energy storage on the Vermont electric transmission and distribution system.

(1) The Commissioner shall submit the report to the House Committee on Energy and Technology and the Senate Committees on Finance and on Natural Resources and Energy.

(2) The Commissioner shall provide an opportunity for the public and Vermont electric transmission and distribution companies to submit

information relevant to the preparation of the report.

(3) The report shall:

(A) summarize existing state, regional, and national actions or initiatives affecting deployment of energy storage;

(B) identify and summarize federal and state jurisdictional issues regarding deployment of energy storage;

(C) identify the opportunities for, the benefits of, and the barriers to deploying energy storage;

(D) identify and evaluate regulatory options and structures available to foster energy storage, including potential cost impacts to ratepayers; and

(E) assess the potential methods for fostering the development of cost-effective solutions for energy storage in Vermont and the potential benefits and cost impacts of each method for ratepayers.

(4) The report shall identify the challenges and opportunities for fostering energy storage in Vermont.

Sec. 23. 30 V.S.A. § 8015 is amended to read:

§ 8015. VERMONT CLEAN ENERGY DEVELOPMENT FUND

* * *

(b) Definitions. ~~For purposes of~~ As used in this section, the following definitions shall apply:

* * *

(6) “Energy storage” means a system that uses mechanical, chemical, or thermal processes to store energy for later use.

* * *

(d) Expenditures authorized.

(1) Projects for funding may include the following:

(A) projects that will sell power in commercial quantities;

(B) among those projects that will sell power in commercial quantities, funding priority will be given to those projects that commit to sell power to Vermont utilities on favorable terms;

(C) projects to benefit publicly owned or leased buildings;

(D) renewable energy projects on farms, which may include any or all costs incurred to upgrade to a three-phase line to serve a system on a farm;

(E) ~~small-scale~~ small-scale renewable energy in Vermont residences, institutions, and businesses:

(i) generally; and

(ii) through the Small-scale Renewable Energy Incentive Program;

(F) projects under the agricultural economic development special account established under 6 V.S.A. § 4710(g) to harvest biomass, convert biomass to energy, or produce biofuel;

(G) until December 31, 2008 only, super-efficient buildings;

(H) projects to develop and use thermal or geothermal energy, regardless of whether they also involve the generation of electricity;

(I) emerging energy-efficient technologies;

(J) effective projects that are not likely to be established in the absence of funding under the program;

(K) natural gas vehicles and associated fueling infrastructure if each such vehicle is dedicated only to natural gas fuel and, on a life cycle basis, the vehicle's emissions will be lower than those of commercially available vehicles using other fossil fuel, and any such infrastructure will deliver gas without interruption of flow;

(L) electric vehicles and associated charging stations;

(M) energy storage projects that facilitate utilization of renewable energy resources.

* * *

* * * Telecommunications Plan * * *

Sec. 24. 30 V.S.A. § 202d is amended to read:

§ 202d. TELECOMMUNICATIONS PLAN

(a) The Department of Public Service shall constitute the responsible planning agency of the State for the purpose of obtaining for all consumers in the State stable and predictable rates and a technologically advanced telecommunications network serving all service areas in the State. The Department shall be responsible for the provision of plans for meeting emerging trends related to telecommunications technology, markets, financing, and competition.

(b) The Department shall prepare a Telecommunications Plan for the State. The Department of Innovation and Information, the Agency of Commerce and Community Development, and the Agency of Transportation shall assist the

Department in preparing the Plan. The Plan shall be for a 10-year period and shall serve as a basis for State telecommunications policy. Prior to preparing the Plan, the Department shall prepare:

(1) ~~an~~ An overview, looking 10 years ahead, of future requirements for telecommunications services, considering services needed for economic development, technological advances, and other trends and factors which, as determined by the Department of Public Service, will significantly affect State telecommunications policy and programs;

(2) ~~a survey~~ One or more surveys of Vermont residents and businesses, conducted in cooperation with the Agency of Commerce and Community Development to determine what telecommunications services are needed now and in the succeeding ~~ten~~ 10 years, generally, and with respect to the following specific sectors in Vermont;

(A) the educational sector, with input from the Secretary of Education;

(B) the health care and human services sectors, with input from the Commissioner of Health and the Secretary of Human Services;

(C) the public safety sector, with input from the Commissioner of Public Safety and the Executive Director of the Enhanced 911 Board; and

(D) the workforce training and development sectors, with input from the Commissioner of Labor.

(3) ~~an~~ An assessment of the current state of telecommunications infrastructure;

(4) ~~an~~ An assessment, conducted in cooperation with the Department of Innovation and Information and the Agency of Transportation, of the current State telecommunications system and evaluation of alternative proposals for upgrading the system to provide the best available and affordable technology for use by government; ~~and.~~

(5) ~~an~~ An assessment of the state of telecommunications networks and services in Vermont relative to other states, including price comparisons for key services and comparisons of the state of technology deployment.

(c) In developing the Plan, the Department shall take into account the State telecommunications policies and goals of section 202c of this title.

(d) In establishing plans, public hearings shall be held and the Department shall consult with members of the public, representatives of telecommunications utilities with a certificate of public good, other providers, including the Vermont Electric Power Co., Inc. (VELCO), and other interested State agencies, particularly the Agency of Commerce and Community

Development, the Agency of Transportation, and the Department of Innovation and Information, whose views shall be considered in preparation of the Plan. To the extent necessary, the Department shall include in the Plan surveys to determine existing, needed, and desirable plant improvements and extensions, access and coordination between telecommunications providers, methods of operations, and any change that will produce better service or reduce costs. To this end, the Department may require the submission of data by each company subject to supervision by the Public Service Board.

(e) Before adopting a Plan, the Department shall conduct public hearings on a final draft and shall consider the testimony presented at such hearings in preparing the final Plan. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose. The Plan shall be adopted by September 1, 2014, and then reviewed and updated as provided in subsection (f) of this section.

(f) The Department, from time to time, but in no event less than every three years, shall institute proceedings to review the Plan and make revisions, where necessary. The three-year major review shall be made according to the procedures established in this section for initial adoption of the Plan. For good cause or upon request by a joint resolution passed by the General Assembly, an interim review and revision of any section of the Plan may be made after conducting public hearings on the interim revision. At least one hearing shall be held jointly with Committees of the General Assembly designated by the General Assembly for this purpose.

(g) The Department shall review and update the minimum technical service characteristic objectives not less than every three years beginning in 2017. In the event such review is conducted separately from an update of the Plan, the Department shall issue revised minimum technical service characteristic objectives as an amendment to the Plan.

* * * Standard Offer Program; Exemption * * *

Sec. 25. STANDARD OFFER PROGRAM; EXEMPTION; REPORT

(a) On or before December 15, 2018, the Public Service Board (Board) shall submit a written report providing its recommendations related to the exemption set forth at 30 V.S.A. § 8005a(k)(2)(B) and any issues arising from that exemption, including the effect of the exemption on the State's achievement of the renewable energy goals set forth in 30 V.S.A. § 8001. In developing its recommendations under this section, the Board shall conduct a proceeding to solicit input from potentially affected parties and the public.

(b) Notwithstanding any contrary provision of the exemption at 30 V.S.A. § 8005a(k)(2)(B), a retail electricity provider shall not qualify to be exempt

under subdivision 8005a(k)(2)(B) during calendar year 2018 or calendar year 2019 unless that provider previously qualified for an exemption under that subdivision.

(c) In this section, “retail electricity provider” has the same meaning as in 30 V.S.A. § 8002.

* * * 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.

* * * Effective Dates * * *

Sec. 26. EFFECTIVE DATES

This section and Secs. 14 through 25a shall take effect on passage. The remainder of 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 the Public Service Board, energy, and telecommunications.

House Proposal of Amendment

S. 130

An act relating to miscellaneous changes to education laws.

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

First: By striking out Sec. 2 (Educational and Training Programs for College Credit), Sec. 3 (Student Enrollment; Small School Grant), Secs. 6–8 (speech-language pathologists), and Sec. 19 (Effective Dates) with their reader assistances, in their entirety.

Second: By renumbering the remaining sections to be numerically correct.

Third: By adding eight new sections, to be Secs. 14, 15, 16, 17, 18, 19, 20, and 21, with reader assistances, to read:

* * * Criminal Record Checks * * *

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.

Sec. 15. [Deleted.]

* * *

* * * Education Weighting Report * * *

Sec. 16. EDUCATION WEIGHTING REPORT

(a) The Agency of Education, the Joint Fiscal Office, and the Office of Legislative Council, in consultation with the Secretary of Human Services, the Vermont Superintendent's Association, the Vermont School Boards Association, and the Vermont National Education Association, shall consider and make recommendations on the criteria used for 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.

* * * Surety Bond; Postsecondary Institutions * * *

Sec. 17. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

(a) When an institution of higher education, whether or not chartered in this State, proposes to discontinue the regular course of instruction, either permanently or for a temporary period other than a customary vacation period, the institution shall:

(1) promptly inform the State Board;

(2) prepare the academic record of each current and former student in a form satisfactory to the State Board and including interpretive information required by the Board; and

(3) deliver the records to a person designated by the State Board to act as permanent repository for the institution's records, together with the reasonable cost of entering and maintaining the records.

* * *

(e) When an institution of higher education is unable or unwilling to comply with the requirements of subsection (a) of this section, the State Board may expend State funds necessary to ensure the proper storage and availability of the institution's records. The Attorney General shall then seek recovery under this subsection, in the name of the State, of all of the State's incurred costs and expenses, including attorney's fees, arising from the failure to comply. Claims under this subsection shall be a lien on all the property of a defaulting institution, until all claims under this subsection are satisfied. The

lien shall take effect from the date of filing notice thereof in the records of the town or towns where property of the defaulting institution is located.

* * *

(g)(1) Each institution of higher education accredited in Vermont, except institutions that are members of the Association of Vermont Independent Colleges (AVIC), the University of Vermont, and the Vermont State Colleges, shall acquire and maintain a bond from a corporate surety licensed to do business in Vermont in the amount of \$50,000.00 to cover costs that may be incurred by the State under subsection (e) of this section due to the institution's failure to comply with the requirements of subsection (a) of this section, and the institution shall provide evidence of the bond to the Secretary within 30 days of receipt. The State shall be entitled to recover up to the full amount of the bond in addition to the other remedies provided in subsection (e) of this section.

(2) AVIC shall maintain a memorandum of understanding with each of its member colleges under which each member college agrees to:

(A) upon the request of AVIC, properly administer the student records of a member college that fails to comply with the requirements of subsection (a) of this section; and

(B) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another AVIC member or other entity selected by AVIC maintaining the records of a member college that fails to comply with the requirements of subsection (a) of this section.

Sec. 18. [Deleted.]

Sec. 19. [Deleted.]

* * * Prekindergarten Education Recommendations * * *

Sec. 20. PREKINDERGARTEN EDUCATION RECOMMENDATIONS

On or before November 1, 2017, the Secretaries of Human Services and of Education shall jointly present recommendations to the House and Senate Committees on Education, House Committee on Human Services, and Senate Committee on Health and Welfare that will ensure equity, quality, and affordability, and reduce duplication and complexity, in the current delivery of prekindergarten services.

* * * 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.

House Proposal of Amendment to Senate Proposal of Amendment

H. 145

An act relating to establishing the Mental Health Crisis Response Commission

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

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.

Report of Committee of Conference

H. 494

An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

TO THE SENATE AND HOUSE OF REPRESENTATIVES:

The Committee of Conference to which were referred the disagreeing votes of the two Houses upon House Bill entitled:

H.494. An act relating to the Transportation Program and miscellaneous changes to transportation-related law.

Respectfully reports that it has met and considered the same and recommends that the House accede to the Senate Proposal of Amendment, and that the bill be further amended in Sec. 7 (Transportation Alternatives Grant Program), by striking out subsection (f) in its entirety and inserting in lieu thereof the following:

(f)(1) In fiscal years 2018 and 2019, all Grant Program funds shall be reserved for municipalities for environmental mitigation projects relating to stormwater and highways, including eligible salt and sand shed projects.

(2) In fiscal years 2020 and 2021, Grant Program funds shall be awarded for any eligible activity and in accordance with the priorities established in subdivision (4) of this subsection.

(3) Each In fiscal year 2022 and thereafter, \$1,100,000.00 of Grant Program funds, or such lesser sum if all eligible applications amount to less than \$1,100,000.00, shall be reserved for municipalities for environmental mitigation projects relating to stormwater and highways, including eligible salt and sand shed projects.

(4) Regarding Grant Program funds awarded in fiscal years 2020 and 2021, and the balance of Grant Program funds not reserved for environmental mitigation projects in fiscal year 2022 and thereafter, in evaluating applications for Transportation Alternatives grants, the Transportation Alternatives Grant Committee shall give preferential weighting to projects involving as a primary feature a bicycle or pedestrian facility. The degree of preferential weighting and the circumstantial factors sufficient to overcome the weighting shall be in the complete discretion of the Transportation Alternatives Grant Committee.

*RICHARD T. MAZZA
RICHARD A. WESTMAN
DUSTIN ALLARD DEGREE*

*Committee on the part of the
Senate*

*PATRICK M. BRENNAN
DAVID E. POTTER
CLEMENT J. BISSONNETTE*

Committee on the part of the House

CONCURRENT RESOLUTIONS FOR NOTICE

Concurrent Resolutions For Notice Under Joint Rule 16

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session of the next legislative day. Requests for floor consideration should be communicated to the Secretary's Office.

H.C.R. 140-157 (For text of Resolutions, see Addendum to House Calendar for April 27, 2017)

CONFIRMATIONS

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

Melissa Bailey of Bolton – Commissioner, Department of Mental Health (term 1/5/17 – 2/28/17) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Melissa Bailey of Bolton – Commissioner, Department of Mental Health (term 3/1/17 – 2/28/19) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Al Gobeille of Shelburne - Secretary, Agency of Human Services (term 1/5/17 – 2/28/17) – By Sen. Ayer for the Committee on Health and Welfare. (3/30/17)

Al Gobeille of Shelburne - Secretary, Agency of Human Services (term 3/1/17 – 2/28/19) – By Sen. Ayer for the Committee on Health and Welfare. (3/30/17)

Cory Gustafson of Montpelier – Commissioner, Department of Vermont Health Access (term 1/5/17 – 2/28/17) – By Sen. Cummings for the Committee on Health and Welfare. (3/30/17)

Cory Gustafson of Montpelier – Commissioner, Department of Vermont Health Access (term 3/1/17 – 2/28/19) – By Sen. Cummings for the Committee on Health and Welfare. (3/30/17)

Monica Hutt of Williston – Commissioner, Department of Aging and Independent Living (term 1/5/17 - 2/28/17) - By Sen. McCormack for the Committee on Health and Welfare. (3/30/17)

Monica Hutt of Williston – Commissioner, Department of Aging and Independent Living (term 3/1/17 - 2/28/19) - By Sen. McCormack for the Committee on Health and Welfare. (3/30/17)

Mark A. Levine, M.D. of Shelburne – Commissioner, Department of Health (term 1/5/17 – 2/28/17) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Mark A. Levine, M.D. of Shelburne – Commissioner, Department of Health

(term 3/1/17 – 2/28/19) – By Sen. Lyons for the Committee on Health and Welfare. (3/30/17)

Kenneth Schatz of South Burlington – Commissioner, Department for Children and Families (term 1/5/17 – 2/28/17) – By Sen. Ingram for the Committee on Health and Welfare. (3/30/17)

Kenneth Schatz of South Burlington – Commissioner, Department for Children and Families (term 1/5/17 – 2/28/19) – By Sen. Ingram for the Committee on Health and Welfare. (3/30/17)

David Fenster of Middlebury – Superior Court Judge – By Sen. Sears for the Committee on Judiciary. (4/18/17)

Elizabeth Mann of Norwich – Superior Court Judge – By Sen. Nitka for the Committee on Judiciary. (4/18/17)

Matthew Valerio of Proctor – Defender General – By Sen. Sears for the Committee on Judiciary. (4/18/17)

Sabina Haskell of Burlington – Chair, Vermont State Lottery Commission – Sen. Baruth for the Committee on Economic Development, Housing and General Affairs. (4/19/17)

Wendy Knight of Panton – Commissioner, Department of Tourism and Marketing – Sen. Mullin for the Committee on Economic Development, Housing and General Affairs. (4/19/17)

Diane Snelling of Hinesburg – Chair, Natural Resources Board (term 1/5/17 – 2/28/17) – Sen. Pearson for the Committee on Natural Resources and Energy. (4/19/17)

Diane Snelling of Hinesburg – Chair, Natural Resources Board (term 3/1/17 – 2/28/19) – Sen. Pearson for the Committee on Natural Resources and Energy. (4/19/17)

Michael Snyder of Stowe - Commissioner, Department of Forest, Parks and Recreation - Sen. Rodgers for the Committee on Natural Resources and Energy. (4/19/17)

Robin Lunge of Berlin – Member, Green Mountain Care Board – Sen. Ayer for the Committee on Health and Welfare. (4/21/17)

Lisa Menard of Waterbury – Commissioner, Department of Corrections – Sen. Branagan for the Committee on Institutions. (4/21/17)

Joan Goldstein of Royalton – Commissioner, Department of Economic Development – Sen. Balint for the Committee on Economic Development, Housing and General Affairs. (4/25/17)

John Quinn of Northfield – Secretary, Agency of Digital Services – Sen. Pearson for the Committee on Government Operations. (4/28/17)

Janette Bombardier of Colchester – Trustee, Vermont State Colleges Board of Trustees – Sen. Mullin for the Committee on Education. (4/19/17)

John Carroll of Norwich – Member, State Board of Education – Sen. Baruth for the Committee on Education. (4/19/17)

Elizabeth Courtney of Montpelier – Member, Natural Resources Board – Sen. Pearson for the Committee on Natural Resources and Energy. (4/19/17)

Martha Illick of Charlotte – Member, Natural Resources Board – Sen. Pearson for the Committee on Natural Resources and Energy. (4/19/17)

John O’Keefe of Manchester – Member, State Board of Education – Sen. Baruth for the Committee on Education. (4/19/17)

Sam Guy of Morrisville – Member, Liquor Control Board – Sen. Sirotkin for the Committee on Economic Development, Housing and General Affairs. (4/20/17)

Emily Wadhams of Burlington – Member, Vermont Housing and Conservation Board – Sen. Sirotkin for the Committee on Economic Development, Housing and General Affairs. (4/20/17)

Susan Popowski of Northfield – Member, Vermont State Lottery Commission – Sen. Mullin for the Committee on Economic Development, Housing and General Affairs. (4/21/17)