

Senate Calendar

THURSDAY, MARCH 01, 2018

SENATE CONVENES AT: 1:00 P.M.

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ACTION CALENDAR
UNFINISHED BUSINESS OF TUESDAY, FEBRUARY 27, 2018

Second Reading

Favorable with Recommendation of Amendment

S. 222.

An act relating to technical amendments to civil and criminal procedure statutes.

Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. § 8007(c) is amended to read:

(c) An assurance of discontinuance shall be in writing and signed by the respondent and shall specify the statute or regulation alleged to have been violated. The assurance of discontinuance shall be simultaneously filed with the Attorney General and the Environmental Division. The Secretary or the Natural Resources Board shall post a final draft assurance of discontinuance to its website and shall provide a final draft assurance of discontinuance to a person upon request. When signed by the Environmental Division, the assurance shall become a judicial order. Upon motion by the Attorney General made within ~~10~~ 14 days ~~of~~ after the date the assurance is signed by the Division and upon a finding that the order is insufficient to carry out the purposes of this chapter, the Division shall vacate the order.

Sec. 2. 12 V.S.A. § 1 is amended to read:

§ 1. RULES OF PLEADING, PRACTICE, AND PROCEDURE; FORMS

The Supreme Court is empowered to prescribe and amend from time to time general rules with respect to pleadings, practice, evidence, procedure, and forms for all actions and proceedings in all courts of this State. The rules thus prescribed or amended shall not abridge, enlarge, or modify any substantive rights of any person provided by law. The rules when initially prescribed or any amendments thereto, including any repeal, modification, or addition, shall take effect on the date provided by the Supreme Court in its order of promulgation, unless objected to by the ~~Joint~~ Legislative Committee on Judicial Rules as provided by this chapter. If objection is made by the ~~Joint~~

Legislative Committee on Judicial Rules, the initially prescribed rules in question shall not take effect until they have been reported to the General Assembly by the Chief Justice of the Supreme Court at any regular, adjourned, or special session thereof, and until after the expiration of 45 legislative days of that session, including the date of the filing of the report. The General Assembly may repeal, revise, or modify any rule or amendment thereto, and its action shall not be abridged, enlarged, or modified by subsequent rule.

Sec. 3. 12 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

As used in sections 3 and 4 of this chapter:

(1) “Adopting authority” means the Chief Justice of the Supreme Court or the ~~administrative judge~~ Chief Superior Judge, where appropriate;

(2) “Court” means the Supreme Court, except in those instances where the statutes permit rules to be adopted by the ~~administrative judge~~ Chief Superior Judge, in which case, the word “court” means the ~~administrative judge~~; Chief Superior Judge.

* * *

Sec. 4. 12 V.S.A. § 701 is amended to read:

§ 701. SUMMONS

(a) Any law enforcement officer authorized to serve criminal process or a State’s Attorney may summon a person who commits an offense to appear before Superior Court by a summons in such form as prescribed by the Court Administrator, stating the time when, and the place where, the person shall appear, signed by the enforcement officer or State’s Attorney and delivered to the person.

* * *

~~(d) A person who does not so appear in response to a summons for a traffic offense as defined in 23 V.S.A. § 2201 shall be fined not more than \$100.00. [Repealed.]~~

Sec. 5. 12 V.S.A. § 3125 is amended to read:

§ 3125. PAYMENT OF TRUSTEE’S CLAIM BY CREDITOR

When it appears that personal property in the hands of a person summoned as a trustee is mortgaged, pledged, or liable for the payment of a debt due to him or her, the court may allow the attaching creditor to pay or tender the amount due to the trustee, and he or she shall thereupon deliver such property, as ~~hereinbefore~~ provided in this subchapter, to the officer holding the execution.

Sec. 6. 12 V.S.A. § 3351 is amended to read:

§ 3351. ATTACHMENT, TAKING IN EXECUTION, AND SALE

Personal property not exempt from attachment, subject to a mortgage, pledge, or lien, may be attached, taken in execution, and sold as the property of the mortgagor, pledgor, or general owner, in the same manner as other personal property, except as ~~hereinafter~~ otherwise provided in this subchapter.

Sec. 7. 18 V.S.A. § 4245 is amended to read:

§ 4245. REMISSION OR MITIGATION OF FORFEITURE

(a) On petition filed within 90 days of after completion of a forfeiture proceeding, ~~the claims commission established in 32 V.S.A. § 931~~ a court that issued a forfeiture order pursuant to section 4244 of this title may order that the forfeiture be remitted or mitigated. The petition shall be sworn, and shall include all information necessary for its resolution or shall describe where such information can be obtained. Upon receiving a petition, the ~~claims commission court~~ shall investigate and may conduct a hearing if in its judgment it would be helpful to resolution of the petition. The ~~claims commission court~~ shall either grant or deny the petition within 90 days.

(b) The ~~claims commission court~~ may remit or mitigate a forfeiture upon finding that relief should be granted to avoid extreme hardship or upon finding that the petitioner has a valid, good faith interest in the property which is not held through a straw purchase, trust, or otherwise for the benefit of another and that the petitioner did not at any time have knowledge or reason to believe that the property was being or would be used in violation of the law.

Sec. 8. 18 V.S.A. § 4474g(b) is amended to read:

(b) Prior to acting on an application for a Registry identification card, the Department shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center. A fingerprint-supported, out-of-state criminal history record and a criminal history record from the Federal Bureau of Investigation shall be required only every three years for renewal of a card for a dispensary owner, principal, and financier.

Sec. 9. REPEAL

2017 Acts and Resolves No. 11, Sec. 60 (amending 32 V.S.A. § 5412) is repealed.

Sec. 10. 3 V.S.A. § 163 is amended to read:

§ 163. JUVENILE COURT DIVERSION PROJECT

(a) The Attorney General shall develop and administer a juvenile court diversion project for the purpose of assisting juveniles charged with delinquent acts. ~~Rules which were adopted by the Vermont Commission on the Administration of Justice to implement the juvenile court diversion project shall be adapted by the Attorney General to the programs and projects established under this section.~~ In consultation with the diversion programs, the Attorney General shall adopt a policies and procedures manual in compliance with this section.

(b) The diversion ~~project program~~ program administered by the Attorney General shall ~~encourage the development~~ support the operation of diversion ~~projects~~ programs in local communities through grants of financial assistance to, or by contracting for services with, municipalities, private groups, or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of project ~~grants~~ funding.

* * *

Sec. 11. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROGRAM

(a) The Attorney General shall develop and administer an adult court diversion program in all counties. ~~The program shall be operated through the juvenile diversion project.~~ In consultation with Diversion programs, the Attorney General shall adopt only such rules as are necessary to establish an adult court diversion program for adults a policies and procedures manual, in compliance with this section.

* * *

(c) The program shall ~~encourage the development~~ support the operation of diversion programs in local communities through grants of financial assistance to, or contracts for services with, municipalities, private groups, or other local organizations. The Attorney General may require local financial contributions as a condition of receipt of program ~~grants~~ funding.

* * *

(e) All adult court diversion programs receiving financial assistance from the Attorney General shall adhere to the following provisions:

(1) The diversion program shall accept only persons against whom charges have been filed and the court has found probable cause, but are not yet adjudicated. The prosecuting attorney may refer a person to diversion either before or after arraignment and shall notify in writing the diversion program and the court of his or her intention to refer the person to diversion. The

matter shall become confidential when notice is provided to the court. If a person is charged with a qualifying crime as defined in 13 V.S.A. § 7601(4)(A) and the crime is a misdemeanor, the prosecutor shall provide the person with the opportunity to participate in the court diversion program unless the prosecutor states on the record at arraignment or a subsequent hearing why a referral to the program would not serve the ends of justice. If the prosecuting attorney refers a case to diversion, the prosecuting attorney may release information to the victim upon a showing of legitimate need and subject to an appropriate protective agreement defining the purpose for which the information is being released and in all other respects maintaining the confidentiality of the information; otherwise files held by the court, the prosecuting attorney, and the law enforcement agency related to the charges shall be confidential and shall remain confidential unless:

- (A) the Board diversion program declines to accept the case;
- (B) the person declines to participate in diversion;
- (C) the Board diversion program accepts the case, but the person does not successfully complete diversion; or
- (D) the prosecuting attorney recalls the referral to diversion.

* * *

(7)(A) The Irrespective of whether a record was expunged, the adult court diversion program shall maintain sufficient records so that the reasons for success or failure of the program in particular cases and overall can be investigated by program staff. These records shall include a centralized statewide filing system that will include the following information about individuals who have successfully completed an adult court diversion program:

- (i) name and date of birth;
- (ii) offense charged and date of offense;
- (iii) place of residence;
- (iv) county where diversion process took place; and
- (v) date of completion of diversion process.

(B) These records shall not be available to anyone other than the participant and his or her attorney, State's Attorneys, the Attorney General, and directors of adult court diversion programs.

(C) Notwithstanding subdivision (B) of this subsection (e), the Attorney General shall, upon request, provide to a participant or his or her attorney sufficient documentation to show that the participant successfully completed diversion.

* * *

(g)(1) Within 30 days ~~of~~ after the two-year anniversary of a successful completion of adult diversion, the court shall provide notice to all parties of record of the court's intention to order the ~~sealing~~ expungement of all court files and records, law enforcement records other than entries in the adult court diversion program's centralized filing system, fingerprints, and photographs applicable to the proceeding. The court shall give the State's Attorney an opportunity for a hearing to contest the ~~sealing~~ expungement of the records. The court shall ~~seal~~ expunge the records if it finds:

(1)(A) two years have elapsed since the successful completion of the adult diversion program by the participant and the dismissal of the case by the State's Attorney;

(2)(B) the participant has not been convicted of a subsequent felony or misdemeanor during the two-year period, and no proceedings are pending seeking such conviction; and

(3)(C) rehabilitation of the participant has been attained to the satisfaction of the court.

(2) The court may expunge any records that were sealed pursuant to this subsection prior to July 1, 2018 unless the State's Attorney's office that prosecuted the case objects. Thirty days prior to expunging a record pursuant to this subdivision, the court shall provide written notice of its intent to expunge the record to the State's Attorney's office that prosecuted the case.

(3)(A) The court shall keep a special index of cases that have been expunged pursuant to this section together with the expungement order. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

(B) The special index and related documents specified in subdivision (A) of this subdivision (3) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(C) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case or by the court if the court finds that inspection of the documents is necessary to serve the interests of justice. The Chief Superior Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(D) The Court Administrator shall establish policies for implementing this subsection (g).

(h) ~~Upon~~ Except as otherwise provided in this section, upon the entry of an order ~~sealing such expunging~~ files and records under this section, the proceedings in the matter ~~under this section~~ shall be considered never to have occurred, all index references thereto shall be deleted, and the participant, the court, and law enforcement officers and departments shall reply to any request for information that no record exists with respect to such participant inquiry in any matter. Copies of the order shall be sent to each agency or official named therein.

(i) ~~Inspection of the files and records included in the order may thereafter be permitted by the court only upon petition by the participant who is the subject of such records, and only to those persons named therein. [Repealed.]~~

(j) The process of automatically ~~sealing~~ expunging records as provided in this section shall only apply to those persons who completed diversion on or after July 1, 2002. Any person who completed diversion prior to July 1, 2002 must apply to the court to have his or her records ~~sealed~~ expunged. ~~Sealing~~ Expungement shall occur if the requirements of subsection (g) of this section are met.

* * *

Sec. 12. 13 V.S.A. § 15 is added to read:

§ 15. USE OF VIDEO

(a) Except as provided by subsection (b) of this section, proceedings governed by Rules 5 and 10 of the Vermont Rules of Criminal Procedure and chapter 229 of this title shall be in person and on the record, and shall not be performed by video conferencing or other electronic means until the Defender General and the Executive Director of the Department of Sheriffs and State's Attorneys execute a joint certification that the video conferencing program in use by the court at the site where the proceeding occurs adequately ensures attorney-client confidentiality and the client's meaningful participation in the proceeding.

(b) A proceeding at which subsection (a) of this section applies may be performed by video conferencing if counsel for the defendant or a defendant not represented by counsel consents.

Sec. 13. 13 V.S.A. § 2301 is amended to read:

§ 2301. MURDER-DEGREES DEFINED

Murder committed by means of poison, or by lying in wait, or by ~~wilful~~ willful, deliberate, and premeditated killing, or committed in perpetrating or attempting to perpetrate arson, sexual assault, aggravated sexual assault, kidnapping, robbery, or burglary, shall be murder in the first degree. All other kinds of murder shall be murder in the second degree.

Sec. 14. EARNED GOOD TIME; REPORT

On or before November 15, 2018, the Commissioner of Corrections, in consultation with the Chief Superior Judge, the Attorney General, the Executive Director of the Department of Sheriffs and State's Attorneys, and the Defender General, shall report to the Senate and House Committees on Judiciary, the Senate Committee on Institutions, and the House Committee on Corrections and Institutions on the advisability and feasibility of reinstating a system of earned good time for persons under the supervision of the Department of Corrections.

Sec. 15. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to miscellaneous judiciary procedures.

(Committee vote: 5-0-0)

UNFINISHED BUSINESS OF WEDNESDAY, FEBRUARY 28, 2018

Second Reading

Favorable with Recommendation of Amendment

S. 216.

An act relating to the administration of Vermont's Medical Marijuana Registry.

Reported favorably with recommendation of amendment by Senator White for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4230e is amended to read:

§ 4230e. CULTIVATION OF MARIJUANA BY A PERSON 21 YEARS OF AGE OR OLDER

(a)(1) Except as otherwise provided in this section, a person 21 years of age or older who cultivates ~~no~~ not more than two mature marijuana plants and four immature marijuana plants shall not be penalized or sanctioned in any manner by the State or any of its political subdivisions or denied any right or privilege under State law.

(2)(A) Each dwelling unit shall be limited to two mature marijuana plants and four immature marijuana plants regardless of how many persons 21 years of age or older reside in the dwelling unit.

(B) A person may not cultivate marijuana pursuant to this section if a registered medical marijuana patient or caregiver cultivates marijuana in the same dwelling unit pursuant to chapter 86 of this title.

(C) As used in this section, “dwelling unit” means a building or the part of a building that is used as a primary home, residence, or sleeping place by one or more persons who maintain a household.

(3) Any marijuana harvested from the plants allowed pursuant to this subsection shall not count toward the one-ounce possession limit in section 4230a of this title, provided it is stored in an indoor facility on the property where the marijuana was cultivated and reasonable precautions are taken to prevent unauthorized access to the marijuana.

(4) Cultivation in excess of the limits provided in this subsection shall be punished in accordance with section 4230 of this title.

* * *

Sec. 2. 18 V.S.A. § 4230f(f) is amended to read:

(f) This section shall not apply to a dispensary that lawfully provides marijuana to a registered patient or caregiver or a registered caregiver who provides marijuana to a registered patient pursuant to chapter 86 of this title.

Sec. 3. 18 V.S.A. § 4472 is amended to read:

§ 4472. DEFINITIONS

* * *

(4) “Debilitating medical condition” means:

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

(B) post-traumatic stress disorder, provided the Department confirms the applicant is undergoing psychotherapy or counseling with a licensed mental health care provider; or

(C) ~~a disease or medical condition or its treatment that is chronic, debilitating, and produces one or more of the following intractable symptoms: cachexia or wasting syndrome; chronic pain; severe nausea; or seizures~~ another disease, condition, or treatment as determined in writing by a qualifying patient’s health care professional as defined in subdivision (7) of this section.

* * *

Sec. 4. 18 V.S.A. § 4474c is amended to read:

§ 4474c. PROHIBITIONS, RESTRICTIONS, AND LIMITATIONS
REGARDING THE USE OF MARIJUANA FOR SYMPTOM
RELIEF

* * *

~~(c) A registered patient or registered caregiver who elects to grow marijuana to be used for symptom relief by the patient may do so only if the marijuana is cultivated in a single, secure indoor facility~~ Personal cultivation of marijuana by a patient or caregiver on behalf of a patient only shall occur:

(1) on property lawfully in possession of the cultivator or with the written consent of the person in lawful possession of the property; and

(2) in an enclosure that is screened from public view and is secure so that access is limited to the cultivator and persons 21 years of age or older who have permission from the cultivator.

~~(d) A registered patient or registered caregiver may not transport marijuana in public unless it is secured in a locked container. [Repealed.]~~

* * *

(g) The use of marijuana by a registered patient shall not be the sole factor disqualifying the patient from any needed medical procedure or treatment, including organ and tissue transplants.

Sec. 5. 18 V.S.A. § 4474e is amended to read:

§ 4474e. DISPENSARIES; CONDITIONS OF OPERATION

(a) A dispensary registered under this section may:

(1) Acquire, possess, cultivate, manufacture, test, transfer, transport, supply, sell, and dispense marijuana, marijuana-infused products, and marijuana-related supplies and educational materials for or to a registered patient who has designated it as his or her dispensary and to his or her registered caregiver for the registered patient's use for symptom relief.

* * *

(3)(A) Cultivate and possess at any one time up to 28 mature marijuana plants, 98 immature marijuana plants, and 28 ounces of usable marijuana. However, if a dispensary is designated by more than 14 registered patients, the dispensary may cultivate and possess at any one time ~~two~~ three mature marijuana plants, seven immature plants, and four ounces of usable marijuana for every registered patient for which the dispensary serves as the designated dispensary.

* * *

(d)(1) A dispensary shall implement appropriate security measures to deter and prevent the unauthorized entrance into areas containing marijuana and the theft of marijuana and shall ensure that each location has an operational security alarm system. All cultivation of marijuana shall take place in a secure, locked facility which is either indoors or outdoors, but not visible to the public and that can only be accessed by the owners, principals, financiers, and employees of the dispensary who have valid Registry identification cards. An outdoor facility is not required to have a roof, provided all other requirements are met. The Department shall perform an annual on-site assessment of each dispensary and may perform on-site assessments of a dispensary without limitation for the purpose of determining compliance with this subchapter and any rules adopted pursuant to this subchapter and may enter a dispensary at any time for such purpose. During an inspection, the Department may review the dispensary's confidential records, including its dispensing records, which shall track transactions according to registered patients' Registry identification numbers to protect their confidentiality.

(2)(A) A registered patient or registered caregiver may obtain marijuana from the dispensary by appointment only.

(B) A dispensary may deliver marijuana to a registered patient or registered caregiver. The marijuana shall be transported in a locked container.

(3) The operating documents of a dispensary shall include procedures for the oversight of the dispensary and procedures to ensure accurate record-keeping.

(4) A dispensary shall submit the results of a financial audit to the Department of Public Safety ~~no~~ not later than ~~60~~ 90 days after the end of the dispensary's first fiscal year, and every other year thereafter. The audit shall be conducted by an independent certified public accountant, and the costs of any such audit shall be borne by the dispensary. The Department may also periodically require, within its discretion, the audit of a dispensary's financial records by the Department.

* * *

(n) Nothing in this subchapter shall prevent a dispensary from acquiring, possessing, cultivating, manufacturing, testing, transferring, transporting, supplying, selling, and dispensing hemp and hemp-infused products ~~for symptom relief~~. "Hemp" shall have the same meaning as provided in 6 V.S.A. § 562. A dispensary shall not be required to comply with the provisions of 6 V.S.A. chapter 34.

Sec. 6. 18 V.S.A. § 4474g is amended to read:

§ 4474g. DISPENSARY REGISTRY IDENTIFICATION CARD;
CRIMINAL BACKGROUND CHECK

(a) ~~Except as provided in subsection (b) of this section, the~~ The Department shall issue each owner, principal, financier, and employee of a dispensary a Registry identification card or renewal card within 30 days ~~of~~ after receipt of the person's name, address, and date of birth and a fee of \$50.00. The fee shall be paid by the dispensary and the cost shall not be passed on to an owner, principal, financier, or employee. ~~A~~ Except as provided by subdivision (b)(2) of this section, a person shall not serve as an owner, principal, financier, or employee of a dispensary until that person has received a Registry identification card issued under this section. Each card shall specify whether the cardholder is an owner, principal, financier, or employee of a dispensary and shall contain the following:

- (1) the name, address, and date of birth of the person;
- (2) the legal name of the dispensary with which the person is affiliated;
- (3) a random identification number that is unique to the person;
- (4) the date of issuance and the expiration date of the Registry identification card; and
- (5) a photograph of the person.

(b)(1) Prior to acting on an application for a Registry identification card, the Department shall obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Each applicant shall consent to the release of criminal history records to the Department on forms developed by the Vermont Crime Information Center.

(2) Once a Registry card application has been submitted, a person may serve as an owner, principal, financier, or employee of a dispensary pending the background check, provided the person is supervised in his or her duties by someone who is a cardholder. The Department shall issue a temporary permit to the person for this purpose, which shall expire upon the issuance of the Registry card or disqualification of the person in accordance with this section.

* * *

Sec. 7. 18 V.S.A. § 4474m is amended to read:

§ 4474m. ~~DEPARTMENT OF PUBLIC SAFETY;~~ PROVISION OF
EDUCATIONAL AND SAFETY INFORMATION

The Department of Public Safety shall provide educational and safety information developed by the Vermont Department of Health, in consultation

with dispensaries, to each registered patient upon registration pursuant to section 4473 of this title, and to each registered caregiver upon registration pursuant to section 4474 of this title.

Sec. 8. 18 V.S.A. § 4474n is added to read:

§ 4474n. TESTING BY THE AGENCY OF AGRICULTURE, FOOD AND MARKETS

The Agency of Agriculture, Food and Markets shall establish a cannabis quality control program for the following purposes:

(1) to develop potency and contaminant testing protocols for hemp, hemp-infused products, marijuana, and marijuana-infused products;

(2) to verify cannabinoid label guarantees of hemp, hemp-infused products, marijuana, and marijuana-infused products;

(3) to test for pesticides, solvents, heavy metals, mycotoxins, and bacterial and fungal contaminants in hemp, hemp-infused products, marijuana, and marijuana-infused products; and

(4) to certify testing laboratories that can offer the services in subdivisions (2) and (3) of this section.

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 3-8 shall take effect July 1, 2018.

(b) Secs. 1 and 2 shall take effect July 2, 2018.

(Committee vote: 4-1-0)

Amendment to S. 216 to be offered by Senators White and Sears

Senators White and Sears move to amend the bill as follows:

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof the following:

Sec. 1. [Deleted.]

Second: In Sec. 9, by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

(b) Sec. 2 shall take effect on July 2, 2018.

Amendment to S. 216 to be offered by Senators Ingram, Cummings and Lyons

Senators Ingram, Cummings and Lyons move that the bill be amended as follows:

First: By striking out Sec. 3 in its entirety and inserting in lieu thereof the

following:

Sec. 3. [Deleted.]

Second: In Sec. 9, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) This section and Secs. 4-8 shall take effect on July 1, 2018.

S. 241.

An act relating to the makeup and duties of the Emergency Medical Services Advisory Committee.

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 909 is amended to read:

§ 909. EMS ADVISORY COMMITTEE

(a) The Commissioner shall establish an advisory committee to advise on matters relating to the delivery of emergency medical services (EMS) in Vermont.

(b) ~~The Emergency Medical Services Advisory Committee shall be chaired by the Commissioner or his or her designee and shall include the following 14 other members:~~

~~(1) Four representatives of EMS districts. The representatives shall be selected by the EMS districts in four regions of the State. Those four regions shall correspond with the geographic lines used by the public safety districts pursuant to 20 V.S.A. § 5. For purposes of this subdivision, an EMS district located in more than one public safety district shall be deemed to be located in the public safety district in which it serves the greatest number of people. One representative from each EMS district in the State, each representative being appointed by the EMS Board in his or her district.~~

~~(2) A representative from the Vermont Ambulance Association or designee.~~

~~(3) A representative from the ~~initiative for rural emergency medical services~~ Initiative for Rural Emergency Medical Services program at the University of Vermont or designee.~~

~~(4) A representative from the Professional Firefighters of Vermont or designee.~~

~~(5) A representative from the Vermont Career Fire Chiefs Association or designee.~~

(6) A representative from the Vermont State Firefighters' Association or designee.

~~(7) An emergency department director of a Vermont hospital appointed by the Vermont Association of Emergency Department Directors or designee.~~

~~(8) An emergency department nurse manager or emergency department director of a Vermont hospital appointed by the Vermont Association of Emergency Department Nurse Managers or designee~~ Hospitals and Health Systems.

~~(9) A representative from the Vermont State Firefighters' Association who serves on a first response or FAST squad.~~

~~(10) A representative from the Vermont Association of Hospitals and Health Systems or designee.~~

~~(8) The Commissioner or designee.~~

~~(11)~~(9) A local government member not affiliated with emergency medical services, firefighter services, or hospital services, appointed by the Vermont League of Cities and Towns.

(c) The Committee shall select from among its members a chair who is not an employee of the State.

(d) The Committee shall meet not less than quarterly in the first year and not less than twice annually each subsequent year and may be convened at any time by the Commissioner or his or her designee Chair or at the request of seven 11 Committee members. Not more than two meetings each year shall be held in the same EMS district. One meeting each year shall be held at a Vermont EMS conference.

~~(d)~~(e) Beginning on January 1, 2014 and for the ensuing two years 2019, the Committee shall report annually on the emergency medical services system to the House Committees on Government Operations, on Commerce and Economic Development, and on Human Services and to the Senate Committees on Government Operations, on Economic Development, Housing and General Affairs, and on Health and Welfare. The Committee's ~~initial and ensuing~~ reports shall include each EMS district's response times to 911 emergencies in the previous year based on information collected from the Vermont Department of Health's Division of Emergency Medical Services and recommendations information on the following:

~~(1) whether Vermont EMS districts should be consolidated such as along the geographic lines used by the four public safety districts established under 20 V.S.A. § 5;~~

~~(2)~~(1) whether every Vermont municipality should be required to have

in effect an emergency medical services plan providing for timely and competent emergency responses; ~~and~~

~~(3)~~(2) whether the State should establish directives addressing when an agency can respond to a nonemergency request for transportation of a patient if doing so will leave the service area unattended or unable to respond to an emergency call in a timely fashion;

(3) how the EMS system is functioning statewide and the current state of recruitment and workforce development;

(4) each EMS district's response times to 911 emergencies in the previous year, based on information collected from the Vermont Department of Health's Division of Emergency Medical Services;

(5) funding mechanisms and funding gaps for EMS personnel and providers across the State, including for the funding of infrastructure, equipment, and operations and costs associated with initial and continuing training, licensure, and credentialing of personnel;

(6) the nature and costs of dispatch services for EMS providers throughout the State and suggestions for improvement;

(7) legal, financial, or other limitations on the ability of EMS personnel with various levels of training and licensure to engage in lifesaving or health-preserving procedures;

(8) how the current system of preparing and licensing EMS personnel could be improved, including the role of Vermont Technical College's EMS program; whether the State should create an EMS academy; and how such an EMS academy should be structured;

(9) how EMS instructor training and licensing could be improved; and

(10) the impact of the State's credentialing requirements for EMS personnel on EMS providers.

Sec. 2. 2019 MEETINGS AND ORGANIZATION

Notwithstanding 18 V.S.A. § 909(d), the Emergency Medical Services Advisory Committee shall meet at least twice between July 1, 2018 and December 31, 2018. The Commissioner or designee shall call the first such meeting, at which time a chair shall be selected pursuant to 18 V.S.A. § 909(c).

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

S. 272.

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

Reported favorably with recommendation of amendment by Senator Westman for the Committee on Transportation.

The Committee recommends that the bill be amended by striking out 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(b) is amended to read:

(b) Special registration plates or removable windshield placards, or both, shall be issued by the Vermont Commissioner of Motor Vehicles. The placard shall be issued without a fee to a person who is blind or has an ambulatory disability. One set of plates shall be issued without additional fees for a vehicle registered or leased to a person who is blind or has an ambulatory disability or to a parent or guardian of a person with a permanent disability. The Commissioner shall issue these placards or plates under rules adopted by him or her after proper application has been made to the Commissioner by any person residing within the State of Vermont. Application forms shall be available on request at the Department of Motor Vehicles.

* * *

* * * Eliminating Requirements to Return License Plates * * *

Sec. 2. 23 V.S.A. § 326 is amended to read:

§ 326. REFUND UPON LOSS OF VEHICLE

The Commissioner may cancel the registration of a motor vehicle when the owner thereof proves to his or her satisfaction that it has been totally destroyed by fire, or, through accident or wear, has become wholly unfit for use and has been dismantled. ~~Upon the cancellation of such~~ After the Commissioner cancels the registration and the return owner returns to the Commissioner ~~of either the registration certificate, or the number plates and the validation sticker (if issued for that year),~~ the Commissioner shall certify to the Commissioner of Finance and Management the fact of ~~such~~ the cancellation, giving the name of the owner of ~~such~~ the motor vehicle, his or her address, the amount of the registration fee paid, and the date of ~~such~~ cancellation. The Commissioner of Finance and Management shall issue his or her warrant in favor of the owner for such percent of the registration fee paid as the unexpired term of the registration bears to the entire registration period, but in no case shall the Commissioner retain less than \$5.00 of the fee paid.

Sec. 3. 23 V.S.A. § 327 is amended to read:

§ 327. REFUND WHEN PLATES NOT USED

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

(1) For registrations cancelled prior to the beginning of the registration period, the refund is the full amount of the fee paid, less a ~~fee~~ charge of \$5.00.

(2) For registrations cancelled within 30 days of the date of issue, the refund is the full amount of the fee paid, less a charge of \$5.00. The owner of a motor vehicle must prove to the Commissioner's satisfaction that the number plates have not been used or attached to a motor vehicle.

(3) For registrations cancelled prior to the beginning of the second year of a two-year registration period, the refund is one-half of the full amount of the two-year fee paid, less a charge of \$5.00.

* * * Veterans; Fee Exemptions * * *

Sec. 4. 23 V.S.A. § 378 is amended to read:

§ 378. VETERANS' EXEMPTIONS

No fees shall be charged an honorably discharged ~~veterans~~ veteran of the U.S. Armed Forces, ~~who are residents~~ is a resident of the State of Vermont for the registration of a motor vehicle ~~granted that the veteran by the Veterans' Administration has acquired with financial assistance from the U.S. Department of Veterans Affairs,~~ or for the registration of a motor vehicle owned by him or her during his or her lifetime obtained as a replacement thereof, when his or her application is accompanied by a certificate copy of an approved VA Form 21-4502 issued by the Veterans' Administration center U.S. Department of Veterans Affairs certifying him or her to be entitled to such exemption the financial assistance.

Sec. 5. 23 V.S.A. § 609 is amended to read:

§ 609. VETERANS' EXEMPTION

No fees shall be charged an honorably discharged ~~veterans~~ veteran of the U.S. Armed Forces, ~~who are residents~~ is a resident of the State of Vermont, for a license to operate a motor vehicle, when the veteran has ~~received~~ acquired a motor vehicle with financial assistance from the Veterans' Administration U.S.

Department of Veterans Affairs and he or she is otherwise eligible to be granted ~~such the~~ license, and when his or her application is accompanied by a certificate copy of an approved VA Form 21-4502 issued by the ~~Veterans' Administration center~~ U.S. Department of Veterans Affairs certifying him or her to be entitled to ~~such exemption~~ the financial assistance.

Sec. 6. 23 V.S.A. § 2002(a) is amended to read:

(a) The Commissioner shall be paid the following fees:

(1) for any certificate of title, including a salvage certificate of title, or an exempt vehicle title, \$35.00;

* * *

(11) for a certificate of title for a motor vehicle ~~granted~~ acquired by a veteran by with financial assistance from the Veterans' Administration U.S. Department of Veterans Affairs and exempt from registration fees pursuant to section 378 of this title, no fee;

* * *

Sec. 7. 32 V.S.A. § 8911 is amended to read:

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

* * *

(14) A motor vehicle ~~granted~~ acquired by a veteran by with financial assistance from the Veterans' Administration U.S. Department of Veterans Affairs, or a vehicle obtained as a replacement to one ~~granted~~ acquired with such assistance, when accompanied by a certificate copy of an approved VA Form 21-4502 issued by the ~~Veterans' Administration Center~~ U.S. Department of Veterans Affairs certifying the veteran to be entitled to the ~~exemption~~ financial assistance.

* * *

* * * Restoration of Driving Privileges Under Total Abstinence Program * * *

Sec. 8. 23 V.S.A. § 1209a(b) is amended to read:

(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~~ and 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~~ not earlier 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, or another examination if it is approved as a preliminary screening test under this subchapter, 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.

(2) If the Commissioner or a medical review board convened by the Commissioner is satisfied by a preponderance of the evidence that the applicant has abstained for the required number of years immediately preceding the application ~~and hearing,~~ has successfully completed a therapy program as required under this section, and has operated under a valid ignition interlock RDL or under an ignition interlock certificate for at least three years following the suspension or revocation, and the person appreciates provides a written acknowledgment that he or she cannot drink any amount of alcohol and drive safely at all and cannot consume nonprescription regulated drugs under any circumstances, the person's license or privilege to operate shall be reinstated immediately, subject to the condition that the person's suspension or revocation will be put back in effect in the event any further investigation reveals a return to the consumption of alcohol or drugs and to such additional conditions as the Commissioner may impose. The requirement to operate under an ignition interlock RDL or ignition interlock certificate shall not apply if the person is exempt under subdivision (a)(4) of this section.

* * *

(4) If the Commissioner finds that a person reinstated under this subsection ~~was is~~ suspended pursuant to section 1205 of this title, or ~~was is~~ convicted of a violation of section 1201 of this title subsequent to reinstatement under this subsection, the person shall be conclusively presumed to be in violation of the conditions of his or her reinstatement.

(5) A person shall be eligible for reinstatement under this subsection only once following a suspension or revocation for life.

* * *

* * * Means of Transmitting Fuel Tax Payments * * *

Sec. 9. 23 V.S.A. § 3015 is amended to read:

§ 3015. COMPUTATION AND PAYMENT OF TAX

Each report required under section 3014 of this title from licensed distributors, dealers, or users shall be accompanied by evidence of an electronic funds transfer payment or a remittance payable to the Department of Motor Vehicles for the amount of tax due, which shall be computed and transmitted in the following manner:

* * *

(3)(A) Distributors and dealers with a tax liability of more than \$25,000.00 filing a report required under subsection 3014(a) of this title shall transmit payment of taxes due to the Department of Motor Vehicles by means of an electronic funds transfer.

(B) Distributors and dealers with a tax liability of \$25,000.00 or less filing a report required under subsection 3014(a) of this title, and users filing a report required under subsection 3014(b) of this title, shall transmit payment of taxes due to the Department of Motor Vehicles by means of an electronic funds transfer payment or by a remittance through the U.S. mail. If a remittance to cover payment of taxes due as shown by a report required by this chapter is sent through the U.S. mail properly addressed to the Department of Motor Vehicles, it shall be deemed received on the date shown by the postmark on the envelope containing the report only for purposes of avoiding penalty and interest. In the event a mailing date is affixed to the envelope by a machine owned or under the control of the person submitting the report, and the U.S. Post Office has corrected or changed the date stamped thereon by causing the official U.S. Post Office postmark to also be imprinted on the envelope, the date shown by the official Post Office postmark shall be the accepted date if different from the original postmark.

* * *

Sec. 10. 23 V.S.A. § 3015 is amended to read:

§ 3015. COMPUTATION AND PAYMENT OF TAX

Each report required under section 3014 of this title from licensed distributors, dealers, or users shall be accompanied by evidence of an electronic funds transfer payment or a remittance payable to the Department of Motor Vehicles for the amount of tax due, which shall be computed and transmitted in the following manner:

* * *

(3)(A) ~~Distributors and dealers with a tax liability of more than \$25,000.00~~ filing a report required under subsection 3014(a) of this title shall transmit payment of taxes due to the Department of Motor Vehicles by means of an electronic funds transfer.

(B) ~~Distributors and dealers with a tax liability of \$25,000.00 or less filing a report required under subsection 3014(a), of this title and users Users filing a report required under subsection 3014(b) of this title,~~ shall transmit payment of taxes due to the Department of Motor Vehicles by means of an electronic funds transfer payment or by a remittance through the U.S. mail. If a remittance is sent through the U.S. mail properly addressed to the Department of Motor Vehicles, it shall be deemed received on the date shown by the postmark on the envelope containing the report only for purposes of avoiding penalty and interest. In the event a mailing date is affixed to the envelope by a machine owned or under the control of the person submitting the report and the U.S. Post Office has corrected or changed the date stamped thereon by causing the official U.S. Post Office postmark to also be imprinted on the envelope, the date shown by the official Post Office postmark shall be the accepted date if different from the original postmark.

* * *

Sec. 11. 23 V.S.A. § 3106(b) is amended to read:

~~(b) If a remittance to cover~~ On or before the due date established by section 3108 of this title, payment of taxes due as shown by a report required by this chapter ~~is sent through the U.S. mail properly addressed~~ shall be transmitted to the Department of Motor Vehicles, ~~it shall be deemed received on the date shown by the postmark on the envelope containing the report only for purposes of avoiding penalty and interest. In the event a mailing date is affixed to the envelope by a machine owned or under the control of the person submitting the report, and the U.S. Post Office has corrected or changed the date stamped by causing the official U.S. Post Office postmark to also be imprinted on the envelope, the date shown by the official post office postmark shall be the accepted date if different from the original postmark;~~

(1) if the tax liability is more than \$25,000.00, by means of an electronic funds transfer payment; or

(2) if the tax liability is \$25,000.00 or less, by means of an electronic funds transfer payment or by a remittance through the U.S. mail.

Sec. 12. 23 V.S.A. § 3106(b) is amended to read:

(b) On or before the due date established by section 3108 of this title, payment of taxes due as shown by a report required by this chapter shall be transmitted to the Department of Motor Vehicles:

~~(1) if the tax liability is more than \$25,000.00, by means of an electronic funds transfer payment; or~~

~~(2) if the tax liability is \$25,000.00 or less, by means of an electronic funds transfer payment or by a remittance through the U.S. mail.~~

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

Sec. 13. 32 V.S.A. § 8911 is amended to read:

§ 8911. EXCEPTIONS

The tax imposed by this chapter shall not apply to:

* * *

(8) Motor vehicles transferred to the spouse, mother, father, child, sibling, grandparent, or grandchild of the donor during the donor's life or following his or her death, or to a trust established for the benefit of any such persons or for the benefit of the donor, or subsequently transferred among such persons, including transfers following a death, provided such the motor vehicle has been registered or titled in this State in the name of the original donor. Transfers exempt under this subdivision (8) include eligible transfers resulting by operation of the law governing intestate estates.

* * *

* * * New Motor Vehicle Arbitration * * *

Sec. 14. 9 V.S.A. § 4173 is amended to read:

§ 4173. PROCEDURE TO OBTAIN REFUND OR REPLACEMENT;
WAIVER OF RIGHTS VOID

(a)(1) After reasonable attempt at repair or correction of the nonconformity, defect, or condition, or after the vehicle is out of service by reason of repair of one or more nonconformities, defects, or conditions for a cumulative total of 30 or more calendar days as provided in this chapter, the consumer shall notify the manufacturer and lessor in writing, on forms to be provided by the manufacturer at the time the new motor vehicle is delivered, of the nonconformity, defect, or condition and the consumer's election to proceed under this chapter. The forms shall be made available by the manufacturer to any public or nonprofit agencies that shall request them. Notice of consumer rights under this chapter shall be conspicuously displayed by all authorized dealers and agents of the manufacturer.

(2) The consumer shall in the notice elect whether to use the dispute settlement mechanism or the arbitration provisions established by the manufacturer or to proceed under the Vermont Motor Vehicle Arbitration Board as established under this chapter. Except in the case of a settlement

agreement between a consumer and manufacturer, and unless federal law otherwise requires, any provision or agreement that purports to waive, limit, or disclaim the rights set forth in this chapter or that purports to require a consumer not to disclose the terms of the provision or agreement is void as contrary to public policy.

(3) The consumer's election of whether to proceed before the Board or the manufacturer's mechanism shall preclude his or her recourse to the method not selected.

* * *

* * * Three-wheeled Motorcycles * * *

Sec. 15. 23 V.S.A. § 601(f) is amended to read:

(f) Operators of autocycles shall be exempt from the requirements to obtain a motorcycle learner's permit or a motorcycle endorsement. The Commissioner shall offer operators of three-wheeled motorcycles that are not autocycles the opportunity to obtain a motorcycle endorsement that authorizes the operation of three-wheeled motorcycles only.

Sec. 16. 23 V.S.A. § 617 is amended to read:

§ 617. LEARNER'S PERMIT

* * *

(b)(1) Notwithstanding the provisions of subsection (a) of this section, any licensed person may apply to the Commissioner of Motor Vehicles for a learner's permit for the operation of a motorcycle in the form prescribed by the Commissioner. The Commissioner shall offer both a motorcycle learner's permit that authorizes the operation of three-wheeled motorcycles only and a motorcycle learner's permit that authorizes the operation of any motorcycle. The Commissioner shall require payment of a fee of \$20.00 at the time application is made.

(2) After the applicant has successfully passed all parts of the applicable motorcycle endorsement examination, other than a skill test, the Commissioner may issue to the applicant a learner's permit ~~which~~ that entitles the applicant, subject to subsection 615(a) of this title, to operate a three-wheeled motorcycle only, or to operate any motorcycle, upon the public highways for a period of 120 days from the date of issuance. The fee for the examination shall be \$9.00.

(3) A motorcycle learner's permit may be renewed only twice upon payment of a \$20.00 fee. If, during the original permit period and two renewals, the permittee has not successfully passed the applicable skill test or the motorcycle rider training course, he or she may not obtain another

motorcycle learner's permit for a period of 12 months from the expiration of the permit unless:

(A) he or she has successfully completed the applicable motorcycle rider training course; or

(B) the learner's permit and renewals thereof authorized the operation of any motorcycle and the permittee is seeking a learner's permit for the operation of three-wheeled motorcycles only.

(4) This section shall not affect section 602 of this title. ~~The fee for the examination shall be \$9.00.~~

* * *

(f)(1) The Commissioner may authorize motorcycle rider training instructors to administer ~~either the a motorcycle endorsement examination for three-wheeled motorcycles only or for any motorcycle, or the a motorcycle skills skill test for three-wheeled motorcycles only or for any motorcycle, or both any of these.~~ Upon successful completion of the applicable examination or test, the instructor shall issue to the applicant either a temporary motorcycle learner's permit or notice of motorcycle endorsement, as appropriate. The instructor shall immediately forward to the Commissioner the application and fee together with such additional information as the Commissioner may require.

(2) The Commissioner shall maintain a list of approved in-state and out-of-state motorcycle rider training courses, successful completion of which the Commissioner shall deem to satisfy the skill test requirement. This list shall include courses that provide training on three-wheeled motorcycles.

* * * Dealer Records of Sales * * *

Sec. 17. 23 V.S.A. § 466 is amended to read:

§ 466. RECORDS; CUSTODIAN

(a) On a form prescribed or approved by the Commissioner, every licensed dealer shall maintain and retain for six years a record containing the following information, which shall be open to inspection by any law enforcement officer or motor vehicle inspector or other agent of the Commissioner during reasonable business hours:

(1) Every vehicle or motorboat ~~which~~ that is bought, sold, or exchanged by the licensee or received or accepted by the licensee for sale or exchange.

(2) Every vehicle or motorboat ~~which~~ that is bought or otherwise acquired and dismantled by the licensee.

(3) The name and address of the person from whom such vehicle or

motorboat was purchased or acquired, the date thereof, the name and address of the person to whom any such vehicle or motorboat was sold or otherwise disposed of and the date thereof, and a sufficient description of every such vehicle or motorboat by name and identifying numbers thereon to identify the same.

(4) ~~If the vehicle or motorboat is sold or otherwise transferred to a consumer, the cash price. As used in this section, "consumer" shall be as defined in 9 V.S.A. § 2451a(a) and "cash price" shall be as defined in 9 V.S.A. § 2351(6). [Repealed.]~~

* * *

* * * Effective Dates * * *

Sec. 18. EFFECTIVE DATES

(a) Secs. 9 and 11 (means of transmitting fuel tax payments) shall take effect on July 1, 2019.

(b) Secs. 10 and 12 (means of transmitting fuel tax payments) shall take effect on July 1, 2020.

(c) This section, Sec. 14 (new motor vehicle arbitration), and Sec. 17 (dealer records) shall take effect on passage.

(d) All other sections shall take effect on July 1, 2018.

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

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

(Committee vote: 5-0-0)

Reported favorably by Senator Brock for the Committee on Finance.

The Committee recommends that the bill be amended as recommended by the Committee on Transportation and when so amended ought pass.

(Committee vote: 7-0-0)

S. 285.

An act relating to universal recycling requirements.

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Solid Waste Management Facility Requirements * * *

Sec. 1. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

(a)(1) No person shall construct, substantially alter, or operate any solid waste management facility without first obtaining certification from the Secretary for such facility, site, or activity, except for sludge or septage treatment or storage facilities located within the fenced area of a domestic wastewater treatment plant permitted under chapter 47 of this title. This exemption for sludge or septage treatment or storage facilities shall exist only if:

(A) the treatment facility does not ~~utilize~~ use a process to ~~further~~ reduce pathogens further in order to qualify for marketing and distribution; and

(B) the facility is not a drying bed, lagoon, or nonconcrete bunker; and

(C) the owner of the facility has submitted a sludge and septage management plan to the Secretary and the Secretary has approved the plan. Noncompliance with an approved sludge and septage management plan shall constitute a violation of the terms of this chapter, as well as a violation under chapters 201 and 211 of this title.

(2) Certification shall be valid for a period not to exceed 10 years.

* * *

(j) A facility certified under this section that offers the collection of municipal solid waste shall:

(1) Beginning on July 1, 2014, collect mandated recyclables separate from other solid waste and deliver mandated recyclables to a facility maintained and operated for the management and recycling of mandated recyclables. A facility shall not be required to accept mandated recyclables from a commercial hauler.

(2) Beginning on July 1, 2015, collect leaf and yard residuals between April 1 and December 15 separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

(3) Beginning on July 1, 2017, collect food residuals separate from other solid waste and deliver food residuals to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title.

* * *

* * * Commercial Hauler Requirements * * *

Sec. 2. 10 V.S.A. § 6607a is amended to read:

§ 6607a. WASTE TRANSPORTATION

(a) A commercial hauler desiring to transport waste within the State shall apply to the Secretary for a permit to do so, by submitting an application on a form prepared for this purpose by the Secretary and by submitting the disclosure statement described in section 6605f of this title. These permits shall have a duration of five years and shall be renewed annually. The application shall indicate the nature of the waste to be hauled. The Secretary may specify conditions that the Secretary deems necessary to assure compliance with State law.

(b) As used in this section:

(1) "Commercial hauler" means:

(A) any person that transports regulated quantities of hazardous waste; and

(B) any person that transports solid waste for compensation in a vehicle.

(2) The commercial hauler required to obtain a permit under this section is the legal or commercial entity that is transporting the waste, rather than the individual employees and subcontractors of the legal or commercial entity. In the case of a sole proprietorship, the sole proprietor is the commercial entity.

(3) The Secretary shall not require a commercial hauler to obtain a permit under this section, comply with the disclosure requirements of this section, comply with the reporting and registration requirements of section 6608 of this title, or pay the fee specified in 3 V.S.A. § 2822, if:

(A) the commercial hauler does not transport more than four cubic yards of solid waste at any time; and

(B) the solid waste transportation services performed are incidental to other nonwaste transportation-related services performed by the commercial hauler.

* * *

(g)(1) Except as set forth in subdivisions (2), (3), and (4) of this subsection, a commercial hauler that offers the collection of municipal solid waste ~~shall~~:

(A) Beginning on July 1, 2015, shall offer to collect mandated recyclables ~~separated~~ separate from other solid waste and deliver mandated

recyclables to a facility maintained and operated for the management and recycling of mandated recyclables.

(B) Beginning on July 1, 2016, may offer to collect leaf and yard residuals separate from other solid waste and deliver leaf and yard residuals to a location that manages leaf and yard residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(3)-(5) of this title.

~~(C) Beginning on July 1, 2018, offer collection of food residuals separate from other solid waste and deliver to a location that manages food residuals in a manner consistent with the priority uses established under subdivisions 6605k(a)(2)-(5) of this title. [Repealed.]~~

(2) In a municipality that has adopted a solid waste management ordinance addressing the collection of mandated recyclables, leaf and yard residuals, or food residuals, a commercial hauler in that municipality is not required to comply with the requirements of subdivision (1) of this subsection and subsection (h) of this section for the material addressed by the ordinance if the ordinance:

(A) is applicable to all residents of the municipality;

(B) prohibits a resident from opting out of municipally provided solid waste services; and

(C) does not apply a variable rate for the collection for the material addressed by the ordinance.

(3) A commercial hauler is not required to comply with the requirements of subdivision (1)(A), ~~(B)~~, ~~or (C)~~ of this subsection in a specified area within a municipality if:

(A) the Secretary has approved a solid waste implementation plan for the municipality;

(B) for purposes of waiver of the requirements of subdivision (1)(A) of this subsection (g), the Secretary determines that under the approved plan:

(i) the municipality is achieving the per capita disposal rate in the State Solid Waste Plan; and

(ii) the municipality demonstrates that its progress toward meeting the diversion goal in the State Solid Waste Plan is substantially equivalent to that of municipalities complying with the requirements of subdivision (1)(A) of this subsection (g);

(C) the approved plan delineates an area where solid waste management services required by subdivision (1)(A), ~~(B)~~, ~~or (C)~~ of this subsection (g) are not required; and

(D) in the delineated area, alternatives to the services, including on-site management, required under subdivision (1)(A), ~~(B)~~, or ~~(C)~~ of this subsection (g) are offered, the alternative services have capacity to serve the needs of all residents in the delineated area, and the alternative services are convenient to residents of the delineated area.

(4) A commercial hauler is not required to comply with the requirements of subdivision (1)(A), ~~(B)~~, or ~~(C)~~ of this subsection for mandated recyclables, or leaf and yard residuals, ~~or food residuals~~ collected as part of a litter collection.

* * *

(i) A commercial hauler that operates a bag-drop or fast-trash site at a fixed location to collect municipal solid waste shall offer at the site all collection services required under 10 V.S.A. § 6605(j).

* * * Landfill Disposal * * *

Sec. 3. 10 V.S.A. § 6621a is amended to read:

§ 6621a. LANDFILL DISPOSAL REQUIREMENTS

(a) In accordance with the following schedule, no person shall knowingly dispose of the following materials in solid waste or in landfills:

* * *

(10) ~~Leaf~~ Source separated leaf and yard residuals and wood waste after July 1, 2016.

* * *

* * * Effective Date * * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

NEW BUSINESS

Third Reading

S. 120.

An act relating to limiting corporate campaign contributions.

S. 175.

An act relating to the wholesale importation of prescription drugs into Vermont, bulk purchasing, and the impact of prescription drug costs on health insurance premiums.

S. 221.

An act relating to establishing extreme risk protection orders.

Amendment to S. 221 to be offered by Senator Sears before Third Reading

Senator Sears moves to amend the bill in Sec. 1, 13 V.S.A. chapter 85, in section 4058, in subsection (b), by striking out subdivision (2) in its entirety and inserting in lieu thereof a new subdivision (2) to read as follows:

(2) A person who files a petition for an extreme risk protection order under this subchapter, or who submits an affidavit accompanying the petition, knowing that information in the petition or the affidavit is false, or that the petition or affidavit is submitted with the intent to harass the respondent, shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both.

S. 282.

An act relating to health care providers participating in Vermont's Medicaid program.

Second Reading

Favorable with Recommendation of Amendment

S. 55.

An act relating to territorial jurisdiction over regulated drug sales.

Reported favorably with recommendation of amendment by Senator Sears for the Committee on Judiciary.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 2301 is amended to read:

§ 2301. APPLICABILITY OF CHAPTER

Notwithstanding any other provisions of law relating to the retention and disposition of evidence or lost, unclaimed, or abandoned property, the provisions of this chapter shall govern the retention or disposition, or both, of unlawful firearms, ~~as defined in section 2302 of this title,~~ in the possession of any agency, ~~as defined in section 2302~~ and the disposition of abandoned firearms in the possession of the Department of Public Safety.

Sec. 2. 20 V.S.A. § 2302 is amended to read:

§ 2302. UNLAWFUL FIREARMS; AGENCY

~~(a) For purposes of~~ As used in this chapter;

(1) ~~“unlawful~~ Unlawful firearms” means firearms the possession of which constitutes a violation of federal or state State law and firearms carried or used in violation of any federal or state State law or in the commission of any federal or state State felony.

~~(b) For purposes of this chapter, “agency”~~ (2) “Agency” means any state State or local law enforcement agency, any state agency except the Vermont ~~fish and wildlife department~~ Department of Fish and Wildlife, and any local government entity.

(3) “Unlawful per se” means firearms the possession of which is unlawful under any circumstances under State or federal law.

(4) “Abandoned firearms” means firearms in the possession of the Department of Public Safety that are no longer needed as evidence and remain unclaimed for more than 18 months from the date the firearms come into the Department’s possession.

Sec. 3. 20 V.S.A. § 2305 is amended to read:

§ 2305. DISPOSITION OF UNLAWFUL FIREARMS

(a) Any ~~unlawful~~ firearm ~~which the commissioner of public safety determines to be unsafe or~~ the possession of which is unlawful per se shall either be destroyed, or if the ~~commissioner of public safety~~ Commissioner of Public Safety deems ~~such to be it~~ appropriate, retained by the ~~department of public safety~~ Department of Public Safety for purposes of forensic science reference. In no event shall the ~~commissioner of public safety~~ Commissioner of Public Safety dispose of such ~~an unlawful~~ a firearm in any other manner or to any other person.

(b)(1) Except as provided in section 2306 of this title, all ~~other~~ unlawful and abandoned firearms shall either be:

(A) ~~delivered to the state treasurer~~ Commissioner of Buildings and General Services as directed by him or her for ~~disposition by public sale pursuant to the provisions of chapter 13 of Title 27, or by such other manner of sale deemed appropriate by the state treasurer, or~~ sale to a federally licensed firearms dealer pursuant to the Commissioner’s authority under Title 29;

(B) ~~at the discretion of the state treasurer~~ Commissioner of Buildings and General Services, donated to a governmental agency or to a nonprofit organization upon the recommendation of the commissioner of fish and wildlife, transferred to the Commissioner of Fish and Wildlife for disposition; or;

(C) ~~if the commissioner of public safety~~ Commissioner of Public Safety deems ~~such to be it~~ appropriate, retained by the ~~department of public safety~~ Department of Public Safety for purposes of forensic science reference.

(2) Notwithstanding the foregoing provision subdivision (1) of this subsection, an unlawful firearm used in the commission of a homicide shall not be delivered to the ~~state treasurer~~ Commissioner of Buildings and General Services for ~~disposition by public sale~~, but shall be disposed of only in accordance with:

(A) the provisions of subsection (a) of this section in the same manner as unlawful per se firearms; or

(B) section 2306 of this title.

(c) When the firearms sold under this section have been delivered to ~~the commissioner of public safety~~ by a local law enforcement agency, the ~~state treasurer~~ Commissioner of Buildings and General Services shall return two-thirds of the net proceeds from the sale to the appropriate municipality. The remaining proceeds shall be allocated pursuant to the authority of the Commissioner of Buildings and General Services under 29 V.S.A. § 1557.

(d) No State agency or department or State official shall be subject to any civil, criminal, administrative, or regulatory liability for any act taken or omission made in reliance on the provisions of this chapter.

Sec. 4. 20 V.S.A. § 2306 is amended to read:

§ 2306. RIGHTS OF INNOCENT OWNER

Nothing contained in subsection 2305(b) of this title shall prejudice the rights of the bona fide owner of any unlawful firearm, the disposition of which is governed by that subsection, upon affirmative proof by him or her that he or she had no express or implied knowledge that such unlawful firearm was being or intended to be used illegally or for illegal purposes. If the bona fide owner provides reasonable and satisfactory proof of his or her ownership and of his or her lack of express or implied knowledge to the ~~commissioner of public safety~~ Commissioner of Public Safety, the unlawful firearm shall be returned to him or her. If the ~~commissioner of public safety~~ Commissioner of Public Safety determines that the proof offered is not satisfactory or reasonable, the person may, within 14 days, request a hearing before the ~~state treasurer~~ Commissioner of Buildings and General Services and the ~~commissioner of public safety~~ Commissioner of Public Safety, jointly. The ~~state treasurer~~ Commissioner of Buildings and General Services and the ~~commissioner of public safety~~ Commissioner of Public Safety shall promptly hold a hearing on any claim filed under this section, in accordance with the provisions for contested cases in 3 V.S.A. chapter 25 of Title 3.

Sec. 5. 20 V.S.A. § 2307 is amended to read:

§ 2307. FIREARMS RELINQUISHED PURSUANT TO RELIEF FROM ABUSE ORDER; STORAGE; FEES; RETURN

* * *

(2)(A)(i) If the owner fails to retrieve the firearm, ammunition, or weapon and pay the applicable storage fee within 90 days of the court order releasing the items, the firearm, ammunition, or weapon may be sold for fair market value. Title to the items shall pass to the law enforcement agency or firearms dealer for the purpose of transferring ownership, except that the Vermont State Police shall follow the procedure described in section 2305 of this title.

* * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to the disposition of unlawful and abandoned firearms.

(Committee vote: 5-0-0)

Amendment to S. 55 to be offered by Senators Baruth, Sirotkin, Clarkson, Ingram, Lyons, McCormack, Pearson, Ashe, Ayer, Balint and Brooks

Senators Baruth, Sirotkin, Clarkson, Ingram, Lyons, McCormack, Pearson, Ashe, Ayer, Balint and Brooks move to amend the bill by adding a new Sec. 6 to read as follows:

Sec. 6. 13 V.S.A. § 4019 is added to read:

§ 4019. FIREARMS TRANSFERS; BACKGROUND CHECKS

(a) As used in this section:

(1) “Firearm” shall have the same meaning as in subdivision 4016(a)(3) of this title.

(2) “Immediate family member” means a spouse, parent, stepparent, child, stepchild, sibling, stepsibling, grandparent, or grandchild.

(3) “Law enforcement officer” shall have the same meaning as in subdivision 4016(a)(4) of this title.

(4) “Licensed dealer” means a person issued a license as a dealer in firearms pursuant to 18 U.S.C. § 923(a).

(5) “Proposed transferee” means an unlicensed person to whom a proposed transferor intends to transfer a firearm.

(6) “Proposed transferor” means an unlicensed person who intends to transfer a firearm to another unlicensed person.

(7) “Transfer” means to transfer a firearm by means of sale, trade, or gift.

(8) “Unlicensed person” means a person who has not been issued a license as a dealer, importer, or manufacturer in firearms pursuant to 18 U.S.C. § 923(a).

(b)(1) Except as provided in subsection (e) of this section, an unlicensed person shall not transfer a firearm to another unlicensed person unless:

(A) the proposed transferor and the proposed transferee physically appear together with the firearm before a licensed dealer and request that the licensed dealer facilitate the transfer; and

(B) the licensed dealer agrees to facilitate the transfer and determines that the proposed transferee is not prohibited by State or federal law from purchasing or possessing the firearm.

(2) A person shall not, in connection with the transfer or attempted transfer of a firearm pursuant to this section, knowingly make a false statement or exhibit a false identification intended to deceive a licensed dealer with respect to any fact material to the transfer.

(c)(1) A licensed dealer who agrees to facilitate a firearm transfer pursuant to this section shall comply with all requirements of State and federal law and shall, unless otherwise expressly provided in this section, conduct the transfer in the same manner as the licensed dealer would if selling the firearm from his or her own inventory.

(2) A licensed dealer shall return the firearm to the proposed transferor and decline to continue facilitating the transfer if the licensed dealer determines that the proposed transferee is prohibited by federal or State law from purchasing or possessing the firearm.

(3) A licensed dealer may charge a reasonable fee to facilitate the transfer of a firearm between a proposed transferor and a proposed transferee pursuant to this section.

(d)(1) An unlicensed person who transfers a firearm to another unlicensed person in violation of subdivision (b)(1) of this section shall be imprisoned not more than one year or fined not more than \$500.00, or both.

(2) A person who violates subdivision (b)(2) of this section shall be imprisoned not more than one year or fined not more than \$500.00, or both.

(e) This section shall not apply to:

- (1) the transfer of a firearm by or to a law enforcement agency;
- (2) the transfer of a firearm by or to a law enforcement officer or member of the U.S. Armed Forces acting within the course of his or her official duties; or
- (3) the transfer of a firearm from one immediate family member to another immediate family member.

And by renumbering the original Sec. 6, effective date, to be Sec. 7

S. 206.

An act relating to business consumer protection for point-of-sale equipment leases.

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

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

Subchapter 9. Credit Card Terminal Leases

§ 2482h. SOLICITATION; MATERIAL MISREPRESENTATION

(a) As used in this subchapter, “credit card terminal” means physical equipment used at the point of sale to accept payment by a payment card, including a credit card, debit card, EBT card, prepaid card, or gift card.

(b) A person who solicits a lease for the use of a credit card terminal:

(1) shall accurately disclose, orally and in writing, the nature and scope of his or her relationship to the person or persons who own, lease, service, and finance the credit card terminal or provide related services, including whether he or she is an employee, independent contractor, or agent of one or more of those persons;

(2) shall accurately disclose the terms of a lease and whether oral statements or commitments he or she makes to the prospective lessee while soliciting a lease are included in the terms of the lease and enforceable against a party to a lease; and

(3) shall not make a material misrepresentation to the prospective lessee concerning the nature of his or her relationships pursuant to subdivision (1) of this subsection, or concerning a lease and its terms pursuant to subdivision (2) of this subsection.

§ 2482i. CREDIT CARD TERMINAL; LEASE PROVISIONS

The following provisions apply to a lease for the use of a credit card terminal:

(1) Plain language. The party primarily responsible for drafting the lease shall use plain language designed to be understood by ordinary consumers, presented in a reasonable format, typeface, and font.

(2) Lease; option to purchase; total cost; disclosure.

(A) The lease shall specify whether the consumer has an option to purchase the credit card terminal that is the subject of the lease, and if so, the purchase price and terms.

(B) If the lessor does not offer the option to purchase the credit card terminal, the lease shall include a disclaimer that the lessee may be able to purchase the same or a similar credit card terminal from another source.

(C) The lease shall specify the terms of the lease and shall provide a cap on the total cost the lessee is required to pay to use the credit card terminal, which shall not exceed 300 percent of the lessor's original purchase price for the credit card terminal or, if the lessor is the manufacturer of the credit card terminal, its total cost of manufacture.

(3) Relationship to processing services and fees.

(A) The lease shall not include terms governing credit card processing services or fees, which shall be the subject of a separate agreement between the lessee of the credit card terminal and the processing service provider.

(B) The lease shall clearly disclose that the lessee has no obligation to contract or negotiate with the lessor, or any affiliate, for processing services or fees.

(C) A lessor shall not condition the terms of the lease, or increase the total cost to lease or purchase the credit card terminal, based on whether the lessee agrees to contract with the lessor, or any affiliate, for processing services.

(4) Contact information. The lease shall clearly and conspicuously identify the lessor of the credit card terminal and the name, mailing address, telephone number, and relationship to the lessor of:

(A) the person to whom the lessee is required to make payments for the credit card terminal;

(B) the person whom the lessee should contact with questions or problems concerning the credit card terminal;

(C) the person to whom the lessee should deliver the credit card terminal for return or repair; and

(D) the sales representative or other person acting with actual or apparent authority on behalf of the lessor to solicit the lease.

(5) Record keeping. A lessor shall retain the following information in electronic format or hard copy for not less than four years after the lease ends:

(A) the lease; and

(B) a record that establishes the lessor's original purchase price for the credit card terminal or, if the lessor is the manufacturer of the credit card terminal, its total cost of manufacture.

(6) Prohibited provisions.

(A) If the judicial forum chosen by the parties to the lease is a forum that would not otherwise have jurisdiction over the lessee, the choice is not enforceable.

(B) A lessor shall not collect any charge or fee for business personal property tax on the credit card terminal unless the tax is actually imposed.

(7) Duty to provide lease; right to cancel.

(A) A lessor shall have the duty to provide a copy of the executed lease to the lessee.

(B) A lessee shall have the right to cancel a lease not later than 45 days after the lessor provides a copy of the executed lease to the lessee.

§ 2482j. VIOLATIONS

A person who violates this subchapter commits an unfair and deceptive act in trade and commerce in violation of section 2453 of this title.

Sec. 2. RULEMAKING

On or before October 1, 2018, the Attorney General shall initiate rulemaking to implement the provisions of this act, including rules to govern minimum disclosure and formatting requirements.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

S. 261.

An act relating to mitigating trauma and toxic stress during childhood by strengthening child and family resilience.

Reported favorably with recommendation of amendment by Senator Lyons for the Committee on Health and Welfare.

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Purpose * * *

Sec. 1. PURPOSE

It is the purpose of this act to create a consistent family support system by enhancing opportunities to build child and family resilience for all families throughout the State that are experiencing childhood trauma and toxic stress. While significant efforts to provide upstream services are already well under way in many parts of the State, better coordination is necessary to ensure that gaps in services are addressed and redundancies do not occur. Coordination of upstream services that are cost effective and either research based or research informed decrease the necessity for more substantial downstream services, including services for opioid addiction and other substance use disorders.

* * * Human Services Generally * * *

Sec. 2. 33 V.S.A. § 3402 is added to read:

§ 3402. DEFINITIONS

As used in this chapter:

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

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

Sec. 3. 33 V.S.A. § 3403 is added to read:

§ 3403. EXPANSION OF SUPPORT SERVICES IN PEDIATRIC
PRIMARY CARE

The Commissioner for Children and Families, in collaboration with the State’s parent-child center network, shall implement a program linking pediatric primary care with support services in each county of the State. The

Commissioner shall select at least one new county annually in which to implement a program based on regional need and available pediatric and parent-child center partners. The Commissioner may accept private grants and donations for the purpose of funding the expansion. Each county shall have at least one pediatric primary care and support service partnership on or before January 1, 2023.

Sec. 4. 33 V.S.A. § 3404 is added to read:

§ 3404. CHILDREN OF INCARCERATED PARENTS

The Departments for Children and Families and of Corrections shall make joint referrals as appropriate for children of incarcerated parents to existing programs within each child's community that address childhood trauma, toxic stress, and resilience building.

Sec. 5. DIRECTOR OF PREVENTION

(a)(1) The position of Director of Prevention shall be established within the Agency of Human Services for a period of six fiscal years. It is the intent of the General Assembly that the Director position is funded by repurposing existing expenditures and resources designated for substance use disorder, including opioid addiction, and related prevention activities.

(2) The Director shall direct the Agency's response on behalf of clients who have experienced childhood trauma and toxic stress, including:

(A) reducing or eliminating ongoing sources of childhood trauma and toxic stress;

(B) strengthening existing programs and establishing new programs within the Agency that build resilience among individuals who have experienced childhood trauma and toxic stress;

(C) providing advice and support to the Secretary of Human Services and facilitating communication and coordination among the Agency's departments with regard to childhood trauma, toxic stress, and the promotion of resilience building;

(D) training all Agency employees on childhood trauma, toxic stress, resilience building, and the Agency's Trauma-Informed System of Care policy and posting training opportunities for child care providers, afterschool program providers, educators, and health care providers on the Agency's website;

(E) collaborating with community partners to build consistency between trauma-informed systems that address medical and social service needs, including serving as a conduit between providers and the public;

(F) coordinating the Agency’s approach to childhood trauma, toxic stress, and resilience building with any similar efforts occurring elsewhere in State government;

(G) providing support for and disseminating educational materials pertaining to the Agency’s Building Flourishing Communities initiative;

(H) regularly meeting with the Child and Family Trauma Work Group; and

(I) ensuring that the Agency and its community partners are leveraging all available federal funds for services related to preventing and mitigating childhood trauma and toxic stress and building child and family resilience.

(b) The Director shall present updates on the progress of his or her work to the House Committees on Health Care and on Human Services and to the Senate Committee on Health and Welfare in January of each year between 2019 and 2024, including any recommendations for legislative action.

(c) On or before January 15, 2024, the Director shall submit a written report to the House Committees on Health Care and on Human Services and to the Senate Committee on Health and Welfare summarizing the Director’s achievements, existing gaps in trauma-informed services, and recommendations for future action.

Sec. 6. COORDINATED RESPONSE TO CHILDHOOD TRAUMA WITH JUDICIAL BRANCH

On or before January 15, 2020, the Chief Justice of the Supreme Court or designee and the Agency of Human Services’ Director of Prevention shall jointly present an action plan to the House Committees on Health Care and on Human Services and to the Senate Committee on Health and Welfare for better coordinating the Judicial and Executive Branches’ approaches for preventing and mitigating childhood trauma and toxic stress and building child and family resilience, including any recommendations for legislative action.

Sec. 7. TRAUMA-INFORMED TRAINING FOR CHILD CARE PROVIDERS

The Agency of Human Services’ Director of Prevention, in consultation with stakeholders, shall develop and implement a plan to promote access to and training on the use of trauma-informed practices that build resilience among children and students for the employees of registered and licensed family child care homes, center-based child care and preschool programs, and afterschool programs. On or before January 15, 2019, the Director shall present information about the plan and its implementation to the House Committees on Health Care and on Human Services and to the Senate

Committee on Health and Welfare. “Trauma-informed” shall have the same meaning as in 33 V.S.A. § 3402.

Sec. 8. CHILD CARE AND COMMUNITY-BASED FAMILY SUPPORT SYSTEM; EVALUATION

The Agency of Human Services’ Director of Prevention shall develop a framework for evaluating the workforce, payment streams, and real costs associated with the State’s child care system and community-based family support system. The framework shall indicate the most appropriate entity to conduct this evaluation as well as articulate the anticipated outcomes of the evaluation. The Director shall present the framework to the House Committees on Health Care and on Human Services and to the Senate Committee on Health and Welfare on or before January 15, 2019.

Sec. 9. SYSTEM EVALUATION

(a) The Commissioner of Health shall determine the appropriate methodology for evaluating the work of the Agency of Human Services related to childhood trauma, toxic stress, and resilience that shall include use of results-based accountability measures currently collected by the Agency. On or before January 1, 2019, the Commissioner shall submit the recommended evaluation methodology to the Director of Prevention and the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare.

(b) The Director shall implement the Commissioner’s recommended evaluation methodology for the purpose of understanding better the strengths and weaknesses of current efforts to address childhood trauma, toxic stress, and resilience statewide.

(c) As used in this section, “toxic stress” shall have the same meaning as in 33 V.S.A. § 3402.

* * * Health Care * * *

Sec. 10. BRIGHT FUTURES GUIDELINES; INTENT

(a) It is the intent of the General Assembly that the Bright Futures Guidelines shall serve as a bridge between clinical and community providers in a shared goal to promote healthy child and family development.

(b) The Bright Futures Guidelines shall be used as a resource in Vermont for all individuals and organizations that provide care and support services to children and families for the purpose of promoting healthy development and encouraging screening for social determinants of health.

(c) The Bright Futures Guidelines shall inform the work of the Agency of Human Services’ Building Flourishing Communities initiative.

Sec. 11. 18 V.S.A. § 702 is amended to read:

§ 702. BLUEPRINT FOR HEALTH; STRATEGIC PLAN

* * *

(c) The Blueprint shall be developed and implemented to further the following principles:

(1) ~~the~~ The primary care provider should serve a central role in the coordination of medical care and social services and shall be compensated appropriately for this effort;_

(2) ~~use~~ Use of information technology should be maximized;_

(3) ~~local~~ Local service providers should be used and supported, whenever possible;_

(4) ~~transition~~ Transition plans should be developed by all involved parties to ensure a smooth and timely transition from the current model to the Blueprint model of health care delivery and payment;_

(5) ~~implementation~~ Implementation of the Blueprint in communities across the State should be accompanied by payment to providers sufficient to support care management activities consistent with the Blueprint, recognizing that interim or temporary payment measures may be necessary during early and transitional phases of implementation; ~~and~~_

(6) ~~interventions~~ Interventions designed to prevent chronic disease and improve outcomes for persons with chronic disease should be maximized, should target specific chronic disease risk factors, and should address changes in individual behavior;_ the physical, mental, and social environment;_ and health care policies and systems.

(7) Providers should assess trauma and toxic stress to ensure that the needs of the whole patient are addressed and opportunities to build resilience and community supports are maximized.

* * *

Sec. 12. 18 V.S.A. § 9382 is amended to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

(a) In order to be eligible to receive payments from Medicaid or commercial insurance through any payment reform program or initiative, including an all-payer model, each accountable care organization shall obtain and maintain certification from the Green Mountain Care Board. The Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for certifying accountable care organizations. To the extent

permitted under federal law, the Board shall ensure these rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In order to certify an ACO to operate in this State, the Board shall ensure that the following criteria are met:

* * *

(17) For preventing and addressing the impacts of adverse childhood experiences and other traumas, the ACO provides connections to existing community services and incentives, such as developing quality-outcome measurements for use by primary care providers working with children and families, developing partnerships between nurses and families, providing opportunities for home visits and other community services, and including parent-child centers, designated agencies, and the Department of Health's local offices as participating providers in the ACO.

* * *

Sec. 13. SCHOOL NURSES; HEALTH-RELATED BARRIERS TO LEARNING

On or before September 1, 2018, the Agency of Human Services' Director of Prevention shall coordinate with the Vermont State School Nurse Consultant and with the Agency of Education systematically to support local education agencies, school administrators, and school nurses in ensuring that all students' health appraisal forms are completed on an annual basis to enable school nurses to identify students' health-related barriers to learning.

* * * Opioid Abuse Treatment * * *

Sec. 14. 33 V.S.A. § 2004a is amended to read:

§ 2004a. EVIDENCE-BASED EDUCATION AND ADVERTISING FUND

(a) The Evidence-Based Education and Advertising Fund is established in the State Treasury as a special fund to be a source of financing for activities relating to fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633; for analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities; for the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A; for the evidence-based ~~education~~ educational program established in 18 V.S.A. chapter 91, subchapter 2; for statewide unused prescription drug disposal initiatives; for the prevention of prescription drug misuse, abuse, and diversion; for prevention and treatment of substance use disorder; for exploration of nonpharmacological approaches to pain management; for a hospital antimicrobial program for the purpose of reducing hospital-acquired infections; for the purchase and distribution of naloxone to emergency medical services personnel; for evidence-based or

evidence-informed opioid-related programming conducted for the benefit of children and families; and for the support of any opioid-antagonist ~~education~~ educational, training, and distribution program operated by the Department of Health or its agents. Monies deposited into the Fund shall be used for the purposes described in this section.

* * *

* * * Education * * *

Sec. 15. 16 V.S.A. § 136 is amended to read:

§ 136. WELLNESS PROGRAM; ADVISORY COUNCIL ON WELLNESS
AND COMPREHENSIVE HEALTH

* * *

(c) The Secretary shall collaborate with other agencies and councils working on childhood wellness to:

(1) Supervise the preparation of appropriate nutrition and fitness curricula for use in the public schools, promote programs for the preparation of teachers to teach these curricula, and assist in the development of wellness programs.

(2) [Repealed.]

(3) Establish and maintain a website that displays data from a youth risk behavior survey in a way that enables the public to aggregate and disaggregate the information. The survey may include questions pertaining to adverse childhood experiences, meaning those potentially traumatic events that occur during childhood and can have negative, lasting effects on an individual's health and well-being.

(4) Research funding opportunities for schools and communities that wish to build wellness programs and make the information available to the public.

(5) Create a process for schools to share with the Department of Health any data collected about the height and weight of students in kindergarten through grade six. The Commissioner of Health may report any data compiled under this subdivision on a countywide basis. Any reporting of data must protect the privacy of individual students and the identity of participating schools.

* * *

Sec. 16. 16 V.S.A. § 2902 is amended to read:

§ 2902. TIERED SYSTEM OF SUPPORTS AND EDUCATIONAL SUPPORT TEAM

* * *

(b) The tiered system of supports shall:

- (1) be aligned as appropriate with the general education curriculum;
- (2) be designed to enhance the ability of the general education system to meet the needs of all students;
- (3) be designed to provide necessary supports promptly, regardless of an individual student's eligibility for categorical programs;
- (4) seek to identify and respond to students in need of support for at-risk behaviors and to students in need of specialized, individualized behavior supports; ~~and~~
- (5) provide all students with a continuum of evidence-based and research-based behavior practices, including trauma-sensitive programming, that teach and encourage prosocial skills and behaviors schoolwide;
- (6) promote collaboration with families, community supports, and the system of health and human services; and
- (7) provide professional development as needed to support all staff in implementing the system.

(c) The educational support team for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

- (1) Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the Secretary, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay particular attention to students during times of academic or personal transition and to those students who have been exposed to trauma.

* * *

Sec. 17. 16 V.S.A. § 2904 is amended to read:

§ 2904. REPORTS

Annually, each superintendent shall report to the Secretary in a form prescribed by the Secretary, ~~on the status of the educational support systems~~ multi-tiered system of supports in each school ~~in the supervisory union~~. The report shall describe the services and supports that are a part of the ~~education~~

~~support system~~ multi-tiered system of supports, how they are funded, and how building the capacity of the ~~educational support system~~ multi-tiered system of supports has been addressed in the ~~school action plans~~, school's continuous improvement plan and professional development and shall be in addition to the report required of the ~~educational support~~ multi-tiered system of supports team in subdivision 2902(c)(6) of this chapter. The superintendent's report shall include a description and justification of how funds received due to Medicaid reimbursement under section 2959a of this title were used.

* * * Appropriation * * *

Sec. 18. APPROPRIATION

The amount of \$119,503.00 shall be appropriated from funds designated for the Office of the Secretary of Human Services in the fiscal year 2019 budget bill to pay for the Director of Prevention position established in Sec. 5 of this act.

* * * Effective Date * * *

Sec. 19. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

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

The Committee recommends that the bill be amended as follows:

First: In Sec. 5, in the section heading, after "PREVENTION", by inserting AND HEALTH IMPROVEMENT and by striking out subdivision (a)(1) and inserting in lieu thereof a new subdivision (a)(1) to read as follows:

(a)(1) The position of Director of Prevention and Health Improvement shall be established within the Agency of Human Services. It is the intent of the General Assembly that the Director position be funded by the repurposing of existing expenditures and resources, including the potential reassignment of existing positions. If the Secretary determines to fund this position by reassigning an existing position, he or she shall propose to the Joint Fiscal Committee prior to October 1, 2018 any necessary statutory modifications to reflect the reassignment.

Second: In Sec. 6, after "Director of Prevention" and before "shall", by inserting and Health Improvement

Third: In Sec. 7, in the first sentence, after "Director of Prevention" and before the comma, by inserting and Health Improvement

Fourth: In Sec. 8, in the first sentence, after “Director of Prevention”, by inserting and Health Improvement

Fifth: In Sec. 9, in subsection (a), in the second sentence, after “Director of Prevention”, by inserting and Health Improvement

Sixth: In Sec. 13, after “Director of Prevention” and before “shall”, by inserting and Health Improvement

Seventh: By striking out Sec. 18 in its entirety and inserting in lieu thereof a new Sec. 18 to read as follows:

Sec. 18. REALLOCATION OF RESOURCES

(a) In an effort to eliminate duplicated efforts and realize savings, the Secretary of Human Services shall review working groups, commissions, and other initiatives pertaining to childhood trauma, substance use disorder, and mental health for the purpose of determining their effectiveness and budgetary impact. The working groups, commissions, and other initiatives addressed shall include:

(1) the Alcohol and Drug Abuse Council pursuant to 18 V.S.A. § 4803;

(2) the Controlled Substances and Pain Management Advisory Council pursuant 18 V.S.A. § 4255;

(3) the Domestic Violence Fatality Review Commission pursuant to 15 V.S.A. § 1140;

(4) the Mental Health Crisis Response Commission pursuant to 18 V.S.A. § 7257a;

(5) the Tobacco Evaluation and Review Board pursuant to 18 V.S.A. § 9504;

(6) the Governor’s Marijuana Advisory Commission; and

(7) the Governor’s Opioid Coordination Council.

(b) On or before October 1, 2018, the Secretary shall submit a report containing findings and recommendations for legislative action to the Senate Committees on Appropriations and on Health and Welfare and to the House Committees on Appropriations, on Health Care, and on Human Services. Any savings identified in conducting this review may be used to fund the Director of Prevention and Health Improvement position established in Sec. 5 of this act.

(Committee vote: 5-0-2)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 166.

An act relating to the provision of medication-assisted treatment for inmates.

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 4750 is added to read:

§ 4750. DEFINITION

As used in this chapter, “medication-assisted treatment” means the use of certain medications, including either methadone or buprenorphine, in combination with any clinically indicated counseling and behavioral therapies for the treatment of opioid use disorder.

Sec. 2. 28 V.S.A. § 801 is amended to read:

§ 801. MEDICAL CARE OF INMATES

* * *

(b) ~~Upon~~ Within 24 hours after admission to a correctional facility for a minimum of 14 consecutive days, each inmate shall be given a physical assessment screened for opioid use disorders as part of the inmate’s initial health care screening unless extenuating circumstances exist.

* * *

(e)(1) Except as otherwise provided in this subsection, an ~~offender~~ inmate who is admitted to a correctional facility while under the medical care of a licensed physician, a licensed advanced practice registered nurse, or a licensed nurse practitioner and who is taking medication at the time of admission pursuant to a valid prescription as verified by the inmate’s pharmacy of record, primary care provider, other licensed care provider, or as verified by the Vermont Prescription Monitoring System or other prescription monitoring or information system, including buprenorphine, methadone, or other medication prescribed in the course of medication-assisted treatment, shall be entitled to continue that medication and to be provided that medication by the Department pending an evaluation by a licensed physician, a licensed physician assistant, a licensed nurse practitioner, or a licensed advanced

practice registered nurse. However, the Department may defer provision of medication in accordance with this subsection if, in the clinical judgment of a licensed physician, a physician assistant, a nurse practitioner, or an advanced practice registered nurse, it is not in the inmate's best ~~interest~~ interests to continue the medication at that time. The licensed practitioner who makes the clinical judgment shall enter the reason for the discontinuance into the inmate's permanent medical record. It is not the intent of the General Assembly that this subsection shall create a new or additional private right of action.

(2) If an inmate screens positive as having a moderate or high risk for opioid use disorder pursuant to subsection (b) of this section and has not been receiving medication-assisted treatment prior to admission to a correctional facility, the inmate may elect to commence buprenorphine-specific medication-assisted treatment if it is deemed clinically appropriate and in the inmate's best interests by a qualified provider.

(3) As used in this subsection, "medication-assisted treatment" shall have the same meaning as in 18 V.S.A. § 4750.

* * *

Sec. 3. RECEIPT OF METHADONE-SPECIFIC MEDICATION-ASSISTED TREATMENT BY INMATES; PLAN

(a) The Commissioners of Corrections and of Health jointly shall develop a plan to operationalize the use of methadone as part of medication-assisted treatment provided to inmates housed in a correctional facility who screen positive as moderate or high risk opioid users while in the custody of the Department of Corrections. The plan shall address:

(1) whether the Department of Health's or the Department of Corrections' contracted provider of health care services shall determine whether medication-assisted treatment is deemed clinically appropriate and whether it is in an inmate's best interests for methadone-specific medication-assisted treatment to be initiated while the individual is in the Department of Corrections' custody or upon his or her reentry to the community;

(2) whether the prescriptive authority for methadone shall be maintained by designated community-based treatment providers or the Department of Corrections' contracted provider of health care services and how it shall be administered to appropriate inmates; and

(3) an estimate of the costs to implement the plan developed pursuant to this section.

(b) On or before October 1, 2018, the Commissioners jointly shall submit the plan developed pursuant to subsection (a) of this section to the Joint

Legislative Justice Oversight Committee. If there are not barriers beyond the control of the State, the Departments shall take steps to operationalize fully the plan, including addressing any budgetary concerns.

(c) As used in this section, “medication-assisted treatment” shall have the same meaning as in 18 V.S.A. § 4750.

Sec. 4. MEMORANDUM OF UNDERSTANDING; MEDICATION-ASSISTED TREATMENT IN STATE CORRECTIONAL FACILITIES

(a) On or before December 31, 2018, the Departments of Corrections and of Health may enter into a memorandum of understanding with opioid treatment programs throughout the State, certified and accredited pursuant to 42 C.F.R. part 8, that serve regions in which a State correctional facility is located to provide medication-assisted treatment to inmates who screen positive as moderate or high risk opioid users. Treatment received pursuant to this section shall be coordinated pursuant to 18 V.S.A. § 4753.

(b) As used in this section, “medication-assisted treatment” shall have the same meaning as in 18 V.S.A. § 4750.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

S. 229.

An act relating to State Board of Education approval of independent schools.

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

The Committee recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND GOALS

(a) The General Assembly created the Approved Independent Schools Study Committee in 2017 Acts and Resolves No. 49 to consider and make recommendations on the criteria to be used by the State Board of Education for designation of an “approved” independent school. The Committee was specifically charged to consider and make recommendations on:

(1) the school’s enrollment policy and any limitation on a student’s ability to enroll;

(2) how the school should be required to deliver special education

services and which categories of these services; and

(3) the scope and nature of financial information and special education information that should be required to be reported by the school to the State Board or Agency of Education.

(b) The General Assembly in Act 49 directed the State Board of Education to suspend further development of the amendments to its rules for approval of independent schools pending receipt of the report of the Committee.

(c) The Committee issued its report in December 2017, noting that, while it was unable to reach consensus on specific legislative language, it did agree unanimously that Vermont students with disabilities should be free to attend the schools that they, their parents, and their local education agency deem appropriate to them.

(d) This act completes that work and provides the direction necessary for the State Board of Education to develop further the amendments to its rules for approval of independent schools.

Sec. 2. 16 V.S.A. § 166 is amended to read:

§ 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

* * *

(b) Approved independent schools.

(1) On application, the State Board shall approve an independent school that offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study pursuant to section 906 of this title and that it substantially complies with all statutory requirements for approved independent schools and the Board's rules for approved independent schools. An independent school that intends to accept public tuition shall be approved by the State Board only on the condition that the school agrees, notwithstanding any provision of law to the contrary, to enroll any student who requires special education services and who is placed in or referred to the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education plan team or by the local education agency; provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education plan or a plan under Section 504 of the Rehabilitation Act of 1973 and who are enrolled pursuant to a written agreement between the local education agency and the school.

(2) Except as provided in subdivision (6) of this subsection, the Board's rules must at minimum require that the school has the resources required to

meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any State or federal law or regulation.

(3) Approval may be granted without State Board evaluation in the case of any school accredited by a private, State, or regional agency recognized by the State Board for accrediting purposes, provided that the State Board shall determine that the school complies with all student enrollment provisions required by law.

* * *

(5) The State Board may revoke, ~~or~~ suspend, or impose conditions upon the approval of an approved independent school, after having provided an opportunity for a hearing, for substantial failure to comply with the minimum course of study, for failure to demonstrate that the school has the resources required to meet its stated objectives, for failure to comply with statutory requirements or the Board's rules for approved independent schools, or for failure to report under subdivision (4) of this subsection (b). Upon that revocation or suspension, students required to attend school who are enrolled in that school shall become truant unless they enroll in a public school, an approved or recognized independent school, or a home study program.

* * *

(8)(A) If an approved independent school experiences any of the following financial reporting events during the period of its approved status, the school shall notify the Secretary of Education within five days after its knowledge of the event unless the failure is de minimis:

(i) the school's failure to file its federal or State tax returns when due, after permissible extension periods have been taken into account;

(ii) the school's failure to meet its payroll obligations as they are due or to pay federal or State payroll tax obligations as they are due;

(iii) the school's failure to maintain required retirement contributions;

(iv) the school's use of designated funds for nondesignated purposes;

(v) the school's inability to fully comply with the financial terms of its secured installment debt obligations over a period of two consecutive months, including the school's failure to make interest or principal payments as they are due or to maintain any required financial ratios;

(vi) the withdrawal or conditioning of the school's accreditation

on financial grounds by a private, State, or regional agency recognized by the State Board for accrediting purposes; or

(vii) the school's insolvency, as defined in 9 V.S.A. § 2286(a).

(B)(i) If the State Board reasonably believes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, then the State Board shall notify the school in writing of the reasons for this belief and permit the school a reasonable opportunity to respond.

(ii) If the State Board, after having provided the school a reasonable opportunity to respond, does not find that the school has satisfactorily responded or demonstrated its financial capacity, the State Board may establish a review team, that, with the consent of the school, includes a member of the Council of Independent Schools, to:

(I) conduct a school visit to assess the school's financial capacity;

(II) obtain from the school such financial documentation as the review team requires to perform its assessment; and

(III) submit a report of its findings and recommendations to the State Board.

(iii) If the State Board concludes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, the State Board may take any action that is authorized by this section.

(iv) In considering whether an independent school lacks financial capacity to meet its stated objectives during the period of its approved status and what actions the State Board should take if it makes this finding, the State Board may consult with, and draw on the analytical resources of, the Vermont Department of Financial Regulation.

(C) Information provided by an independent school under this subsection that is not already in the public domain is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

* * *

Sec. 3. 16 V.S.A. § 2973 is amended to read:

§ 2973. ~~INDEPENDENT SCHOOL TUITION RATES~~ SCHOOLS

(a)(1) Notwithstanding any provision of law to the contrary, an approved independent school that accepts public tuition shall enroll any student with an

individualized education plan who requires special education services and who is placed in the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education plan team or by the local education agency (LEA); provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education plan or a plan under Section 504 of the Rehabilitation Act of 1973 and who are enrolled pursuant to a written agreement between the LEA and the school.

(2) In placing a student with an independent school under subdivision (1) of this subsection, the student's individualized education plan team and the LEA shall comply with all applicable federal and State requirements.

(3) An approved independent school is not required to demonstrate that it has the resources to serve every category of special education in order to be approved or retain its approval to receive public funding for general tuition.

(4) The terms "special education services," "LEA," and "individualized education plan" or "IEP" as used in this section shall have the same meanings as defined by State Board rules.

(b)(1) The Secretary of Education shall establish minimum standards of services for students receiving special education services in independent schools in Vermont; shall set, after consultation with independent schools in Vermont, the maximum rates to be paid by the Agency and school districts for tuition, room, and board based on the level of services; and may advise independent schools as to the need for certain special education services in Vermont.

(2)(A) The Secretary of Education shall set, after consultation with independent schools in Vermont, and based on the level of services provided by the schools, the maximum rates to be paid by the Agency and supervisory unions or school districts for tuition, room, and board for residential placement of students who require special education services. The amount charged by an independent school for tuition shall reflect the school's actual or anticipated costs of providing special education services to the student and shall not exceed the maximum rates set by the Secretary, provided that the Secretary may permit charges in excess of these maximum rates where the Secretary deems warranted.

(B)(i) An approved independent school that enrolls a student under subdivision (a)(1) of this section on a nonresidential basis may bill the responsible LEA for excess special education costs incurred by the independent school in providing special education services beyond those covered by general tuition. Reimbursement of these excess special education costs shall be based on the direct-costs rates approved by the Secretary for

services actually provided to the student consistent with the Agency of Education Technical Manual for special education cost accounting. The Agency of Education shall publish specific elements that must be included as part of an independent school's invoice for excess special education costs, and these elements shall be included in the written agreement required under subdivision (c)(2) of this section.

(ii) In establishing the direct cost rates for reimbursement under this subdivision (B), the Secretary shall apply the principle of treating an approved independent school and a public school with parity in the amount of federal, State and local contributions to cover the costs of providing special education services.

(C)(i) The Secretary shall set, after consultation with independent schools in Vermont, the maximum tuition rates to be paid by the Agency and supervisory unions or school districts to independent schools that limit enrollment to students who are on an IEP or a plan under Section 504 of the Rehabilitation Act of 1973 and who are enrolled pursuant to a written agreement between the LEA and the school. The maximum tuition rates shall be based on the level of services provided by the school.

(ii) The tuition rates established by the Secretary under this subdivision (C) shall be no more than the costs that are reasonably related to the level of services provided by the school and shall be set forth on a form prescribed for that purpose by the Secretary of Education. The Secretary shall determine the relationship between costs and the level of services by using generally accepted accounting principles, such as those set forth in the Handbook (II) for Financial Accounting of Vermont School Systems.

(iii) After the Secretary approves a tuition rate for an independent school under this subdivision (C), the school shall not exceed that tuition rate until such time as a new tuition rate is approved by the Secretary.

(3) An approved independent school shall provide such documentation to the Secretary as the Secretary deems necessary in order to ensure that amounts payable under this subsection to the school are reasonable in relation to the special education services provided by the school. The Secretary may withhold, or direct an LEA to withhold, payment under this subsection pending the Secretary's receipt of required documentation under this subsection, or may withhold, or direct an LEA to withhold, an amount determined by the Secretary as not reasonable in relation to the special education services provided by the school.

(c)(1) In order to be approved as an independent school eligible to receive State funding under subdivision (a)(1) of this section, the school shall demonstrate the ability to serve students with disabilities by:

(A) demonstrating an understanding of special education requirements, including the:

(i) provision of a free and appropriate public education in accordance with federal and State law;

(ii) provision of education in the least restrictive environment in accordance with federal and State law;

(iii) characteristics and educational needs associated with any of the categories of disability or suspected disability under federal and State law; and

(iv) procedural safeguards and parental rights, including discipline procedures, specified in federal and State law;

(B) committing to implementing the IEP of an enrolled student with special education needs, providing the required services, and appropriately documenting the services and the student's progress;

(C) subject to subsection (d) of this section, employing or contracting with staff who have the required licensure to provide special education services;

(D) agreeing to communicate with the responsible LEA concerning:

(i) the development of, and any changes to, the IEP;

(ii) services provided under the IEP and recommendations for a change in the services provided;

(iii) the student's progress;

(iv) the maintenance of the student's enrollment in the independent school; and

(v) the identification of students with suspected disabilities; and

(E) committing to participate in dispute resolution as provided under federal and State law.

(2) An approved independent school that enrolls a student requiring special education services who is placed under subdivision (a)(1) of this section:

(A) shall enter into a written agreement with the LEA:

(i) committing to the requirements under subdivision (1) of this subsection (c); and

(ii) if the LEA provides staff or resources to the approved independent school on an interim basis under subsection (d) of this section,

setting forth the terms of that arrangement with assistance from the Agency of Education on the development of those terms and on the implementation of the arrangement; and

(B) subject to subsection (d) of this section, shall ensure that qualified school personnel attend evaluation and planning meetings and IEP meetings for the student.

(d) If an approved independent school enrolls a student under subdivision (a)(1) of this section but does not have the staff or State Board certification to provide special education services in the specific disability category that the student requires, then:

(1) The LEA, in consultation with the approved independent school and the Agency of Education, shall determine what special education services and supports the school is able to provide to the student.

(2) The LEA shall, on an interim basis and at its cost, provide such additional staff and other resources to the approved independent school as are necessary to support the student until such time as the approved independent school is able to directly provide these services and has the appropriate State Board certification; provided, however, that the school shall have all required staff and resources and the appropriate State Board certification within nine academic months after the date of the student's initial enrollment.

(3) If the school does not have all required staff and resources and the appropriate State Board certification within nine academic months after the date of the student's initial enrollment as required under subdivision (2) of this subsection (d), then, in the event that the State Board determines that the school has failed to make good faith and reasonable efforts to secure the required staff, resources, and certification, the State Board may take any action that is authorized by section 166 of this title.

(b)(e) Neither a school districts district nor any State agency shall pay rates for tuition, room, and board, for students receiving special education in independent schools outside Vermont that are in excess of allowable costs approved by the authorized body in the state in which the independent school is located, except in exceptional circumstances or for a child who needs exceptional services, as approved by the Secretary.

(e)(f) The State Board is authorized to enter into interstate compacts with other states to regulate rates for tuition, room, and board for students receiving special education in independent schools.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-1-0)

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. 261 - 271 (For text of Resolutions, see Addendum to House Calendar for March 1, 2018)

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.

Adam Greshin of Warren - Commissioner of the Department of Finance and Management (term 7/10/17 - 2/28/19) - By Senator Clarkson for the Committee on Government Operations. (2/28/19)

Richard J. Wobby of Northfield - Member of the Liquor Control Board - By Senator Ayer for the Committee on Economic Development, Housing and General Affairs. (2/21/18)

NOTICE OF JOINT ASSEMBLY

March 15, 2018 - 10:30 A.M. - Retention of One Superior Court Judge, John R. Treadwell and one Magistrate, Barry E. Peterson.

FOR INFORMATION ONLY

CROSS OVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 2, 2018**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 16, 2018**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (Appropriations “Big Bill”, Transportation Spending Bill, Capital Construction Bill, and Fee Bill).