

Senate Calendar

FRIDAY, MARCH 02, 2018

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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. 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~~ 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 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)

UNFINISHED BUSINESS OF THURSDAY, MARCH 1, 2018

Third Reading

S. 120.

An act relating to limiting corporate campaign contributions.

Second Reading

Favorable with Recommendation of Amendment

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)

NEW BUSINESS

Third Reading

S. 55.

An act relating to territorial jurisdiction over regulated drug sales.

Amendment to S. 55 to be offered by Senator Bray before Third Reading

Senator Bray moves to amend the bill in Sec. 6, 13 V.S.A. § 4019, in subdivision (c)(3), after the word “fee”, by inserting , not to exceed \$20.00,

Amendment to S. 55 to be offered by Senator Rodgers before Third Reading

Senator Rodgers moves to amend the bill in Sec. 6, 13 V.S.A. § 4019, by striking out subdivision (d)(1) in its entirety and inserting in lieu thereof a new subdivision (d)(1) to read as follows:

(d)(1)(A) Except as provided in subdivision (1)(B) of this subsection (d), 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.

(B) Subdivision (1)(A) of this subsection (d) shall not apply to a person who, after the person violates subdivision (A), provides the law enforcement officer or the State’s Attorney with proof that the person has passed a federal background check under the National Instant Criminal Background Check System.

Amendment to S. 55 to be offered by Senators Ashe, Balint, Ayer, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Lyons, McCormack, Pearson, Pollina, Sirotkin and White before Third Reading

Senators Ashe, Balint, Ayer, Baruth, Bray, Brooks, Campion, Clarkson, Cummings, Ingram, Lyons, McCormack, Pearson, Pollina, Sirotkin and White move to amend the bill by adding a new Sec. 7 to read as follows:

Sec. 7. 13 V.S.A. § 4020 is added to read

§ 4020. SALE OF FIREARMS TO MINORS PROHIBITED

(a) A person shall not sell a firearm to a person under 21 years of age. A person who violates this subsection shall be imprisoned for not more than one year or fined not more than \$1,000.00, or both.

(b) This section shall not apply to

(1) a law enforcement officer purchasing the firearm for purposes of his or her duties and responsibilities as a law enforcement officer; or

(2) an active member of the Vermont National Guard, of the National Guard of another state, or of the U.S. Armed Forces purchasing the firearm for purposes of his or her duties and responsibilities as a member of the armed forces.

(c) As used in this section:

(1) "Firearm" shall have the same meaning as in subsection 4017(d) of this title.

(2) "Law enforcement officer" shall have the same meaning as in subsection 4016(a) of this title.

And by renumbering the original Sec. 7, effective date, to be Sec. 8

S. 216.

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

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)

NOTICE CALENDAR

Second Reading

Favorable

S. 154.

An act relating to exempting trailers in storage from the property tax.

Reported favorably by Senator Campion for the Committee on Finance.

(Committee vote: 7-0-0)

Favorable with Recommendation of Amendment

S. 173.

An act relating to sealing criminal history records when there is no conviction.

Reported favorably with recommendation of amendment by Senator Benning 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. 13 V.S.A. § 7602 is amended to read:

§ 7602. EXPUNGEMENT AND SEALING OF RECORD,
POSTCONVICTION; PROCEDURE

* * *

(c)(1) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if the following conditions are met:

(A) At least 10 years have elapsed since the date on which the person successfully completed the terms and conditions of the sentence for the conviction.

(B) The person has not been convicted of a felony arising out of a new incident or occurrence ~~since the person was convicted of the qualifying crime in the last 7 years.~~

(C) The person has not been convicted of a misdemeanor during the past five years.

(D) Any restitution ordered by the court for any crime of which the person has been convicted has been paid in full.

(E) After considering the particular nature of any subsequent offense, the court finds that expungement of the criminal history record for the qualifying crime serves the interest of justice.

* * *

Sec. 2. 13 V.S.A. § 7603 is amended to read:

§ 7603. EXPUNGEMENT AND SEALING OF RECORD, NO
CONVICTION; PROCEDURE

(a) ~~A person who was cited or arrested for a qualifying crime or qualifying crimes arising out of the same incident or occurrence may file a petition with the court requesting expungement or~~ Unless either party objects in the interest

of justice, the court shall issue an order sealing of the criminal history record related to the citation or arrest if one of the following conditions is met of a person:

~~(1) No criminal charge is filed by the State and the statute of limitations has expired.~~

~~(2) The twelve months after the citation or arrest if:~~

~~(A) the court does not make a determination of probable cause at the time of arraignment or dismisses the charge at the time of arraignment and the statute of limitations has expired; or~~

~~(3)(B) The the charge is dismissed before trial:~~

~~(A) without prejudice and the statute of limitations has expired; or~~

~~(B) with prejudice.~~

~~(4)(2) The at any time if the prosecuting attorney and the defendant and the respondent stipulate that the court may grant the petition to expunge and seal the record.~~

~~(b) The State's Attorney or Attorney General shall be the respondent in the matter. If a party objects to sealing or expunging a record pursuant to this section, the court shall schedule a hearing to determine if sealing or expunging the record serves the interest of justice. The petitioner defendant and the respondent prosecuting attorney shall be the only parties in the matter.~~

~~(c) The court shall grant the petition and order that the criminal history record be expunged pursuant to section 7606 of this title if it finds that expungement of the criminal history record serves the interest of justice. [Repealed.]~~

~~(d) The court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if:~~

~~(1) The court finds that sealing the criminal history record better serves the interest of justice than expungement.~~

~~(2) The person committed the qualifying crime after reaching 19 years of age. [Repealed.]~~

(e) Unless either party objects in the interest of justice, the court shall issue an order expunging a criminal history record related to the citation or arrest of a person:

(1) not more than 45 days after:

(A) acquittal if the defendant is acquitted of the charges; or

(B) dismissal if the charge is dismissed with prejudice before trial;

(2) at any time if the prosecuting attorney and the defendant stipulate that the court may grant the petition to expunge the record.

(f) Unless either party objects in the interest of justice, the court shall issue an order to expunge a record sealed pursuant to subsection (a) or (g) of this section after the statute of limitations has expired.

(g) A person may file a petition with the court requesting sealing or expungement of a criminal history record related to the citation or arrest of the person at any time. The court shall grant the petition and issue an order sealing or expunging the record if it finds that sealing or expunging the record serves the interest of justice.

(h) The court may expunge any records that were sealed pursuant to this section 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 subsection, the court shall provide to the State's Attorney's office that prosecuted the case written notice of its intent to expunge the record.

(i)(1) 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.

(2) The special index and related documents specified in subdivision (1) of this subsection (i) shall be confidential and shall be physically and electronically segregated in a manner that ensures confidentiality and that limits access to authorized persons.

(3) 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 interest 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.

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

Sec. 4. DEPARTMENT OF STATE'S ATTORNEYS AND SHERIFFS;
EXPUNGEMENT-ELIGIBLE CRIMES; AUTOMATIC
EXPUNGEMENT AND SEALING OF CRIMINAL HISTORY
RECORDS; REPORT

The Department of State's Attorneys and Sheriffs, in consultation with the Office of the Court Administrator, the Vermont Crime Information Center, the Office of the Attorney General, the Office of the Defender General, the Center for Crime Victim Services, and Vermont Legal Aid, shall:

(1) consider:

(A) expanding the list of qualifying crimes eligible for expungement pursuant to 13 V.S.A. § 7601 to include any nonviolent drug-related offenses;

(B) the implications of such an expansion on public health, economic development, and law enforcement efforts in the State; and

(C) the viability of automating the process of expunging and sealing criminal history records;

(2) seek input from the Vermont Governor's Opioid Coordination Council; and

(3) on or before November 1, 2018, report to the Joint Legislative Justice Oversight Committee on the findings of the group, including any recommendations on specific crimes to add to the definition of qualifying crimes pursuant to 13 V.S.A. § 7601.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

S. 197.

An act relating to liability for toxic substance exposures or releases.

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:

* * * Strict Liability; Toxic Substance Release * * *

Sec. 1. 10 V.S.A. chapter 159, subchapter 5 is added to read:

Subchapter 5. Strict Liability for Toxic Substance Release

§ 6685. DEFINITIONS

As used in this subchapter:

(1) "Harm" means any personal injury or property damage.

(2) "Release" means any intentional or unintentional, permitted or unpermitted, act or omission that allows a toxic substance to enter the air, land, surface water, groundwater, or any other place where the toxic substance may be located in one or more of the following amounts:

(A) more than two gallons or pounds;

(B) two gallons or pounds or less if the amount released poses a potential or actual threat to human health; or

(C) for any toxic substance regulated under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675, as amended, the reportable quantity specified under 40 C.F.R. § 302.4.

(3)(A) “Toxic substance” means any substance, mixture, or compound that has the capacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption through any body surface and that satisfies one or more of the following:

(i) the substance, mixture, or compound is listed on the U.S. Environmental Protection Agency Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-To-Know Act, Comprehensive Environmental Response, Compensation and Liability Act, and Section 112(r) of the Clean Air Act;

(ii) the substance, mixture, or compound is defined as a “hazardous material” under 10 V.S.A. § 6602 or under rules adopted under 10 V.S.A. chapter 159;

(iii) testing has produced evidence, recognized by the National Institute for Occupational Safety and Health or the U.S. Environmental Protection Agency, that the substance, mixture, or compound poses acute or chronic health hazards;

(iv) the Department of Health has issued a public health advisory for the substance, mixture, or compound; or

(v) the Secretary of Natural Resources has designated the substance, mixture, or compound as a hazardous waste under 10 V.S.A. chapter 159.

(B) “Toxic substance” shall not mean:

(i) a pesticide regulated by the Secretary of Agriculture, Food and Markets; or

(ii) ammunition or components thereof, firearms, air rifles, discharge of firearms or air rifles, or hunting or fishing equipment or components thereof.

§ 6686. LIABILITY FOR RELEASE OF TOXIC SUBSTANCES

(a) Any person who releases a toxic substance shall be held strictly, jointly, and severally liable for any harm resulting from the release.

(b) Any person held liable under subsection (a) of this section shall have

the right to seek contribution from any other person who caused or contributed to the release. The right to contribution under this subsection shall include the right to seek contribution from a chemical manufacturer that released a toxic substance when a court determines that the manufacturer failed to warn a person of a toxic substance's propensity to cause the harm complained of.

(c) Nothing in this section shall be construed to supersede or diminish in any way existing remedies available to a person or the State at common law or under statute.

* * * Medical Monitoring Damages * * *

Sec. 2. 12 V.S.A. chapter 219 is added to read:

CHAPTER 219. MEDICAL MONITORING DAMAGES

§ 7201. DEFINITIONS

As used in this chapter:

(1) "Disease" means any disease, ailment, or adverse physiological or chemical change linked with exposure to a toxic substance.

(2) "Exposure" means ingestion, inhalation, contact with the skin or eyes, or any other physical contact.

(3) "Medical monitoring damages" means the cost of medical tests or procedures and related expenses incurred for the purpose of detecting latent disease resulting from exposure.

(4) "Release" means any intentional or unintentional, permitted or unpermitted, act or omission that allows a toxic substance to enter the air, land, surface water, groundwater, or any other place where the toxic substance may be located in one or more of the following amounts:

(A) more than two gallons or pounds;

(B) two gallons or pounds or less if the amount released poses a potential or actual threat to human health; or

(C) for any toxic substance regulated under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675, as amended, the reportable quantity specified under 40 C.F.R. § 302.4.

(5)(A) "Toxic substance" means any substance, mixture, or compound that has the capacity to produce personal injury or illness to humans through ingestion, inhalation, or absorption through any body surface and that satisfies one or more of the following:

(i) the substance, mixture, or compound is listed on the U.S. Environmental Protection Agency Consolidated List of Chemicals Subject to the Emergency Planning and Community Right-To-Know Act, Comprehensive Environmental Response, Compensation and Liability Act, and Section 112(r) of the Clean Air Act;

(ii) the substance, mixture, or compound is defined as a “hazardous material” under 10 V.S.A. § 6602 or under rules adopted under 10 V.S.A. chapter 159;

(iii) testing has produced evidence, recognized by the National Institute for Occupational Safety and Health or the U.S. Environmental Protection Agency, that the substance, mixture, or compound poses acute or chronic health hazards;

(iv) the Department of Health has issued a public health advisory for the substance, mixture, or compound; or

(v) the Secretary of Natural Resources has designated the substance, mixture, or compound as a hazardous waste under 10 V.S.A. chapter 159; or

(vi) the substance, when released, can be shown by expert testimony to pose a potential threat to human health or the environment.

(B) “Toxic substance” shall not mean:

(i) a pesticide regulated by the Secretary of Agriculture, Food and Markets; or

(ii) ammunition or components thereof, firearms, air rifles, discharge of firearms or air rifles, or hunting or fishing equipment or components thereof.

§ 7202. MEDICAL MONITORING DAMAGES FOR EXPOSURE TO TOXIC SUBSTANCES

(a) A person with or without a present injury or disease shall have a cause of action for medical monitoring damages against a person who released a toxic substance if all of the following are demonstrated by a preponderance of the evidence:

(1) The person was exposed to the toxic substance as a result of tortious conduct by the person who released the toxic substance, including conduct that constitutes negligence, battery, strict liability, trespass, or nuisance;

(2) There is a probable link between exposure to the toxic substance and a latent disease.

(3) The person’s exposure to the toxic substance increases the risk of

developing the latent disease. A person does not need to prove that the latent disease is certain or likely to develop as a result of the exposure.

(4) Diagnostic testing is reasonably necessary. Testing is reasonably necessary if a physician would prescribe testing for the purpose of detecting or monitoring the latent disease.

(5) Medical tests or procedures exist to detect the latent disease.

(b) A court shall place the award of medical monitoring damages into a court-supervised program administered by a medical professional.

(c) If a court places an award of medical monitoring damages into a court-supervised program pursuant to subsection (c) of this section, the court shall also award to the plaintiff reasonable attorney's fees and other litigation costs reasonably incurred.

(d) Nothing in this chapter shall be deemed to preclude the pursuit of any other civil or injunctive remedy available under statute or common law, including the right of any person to recover for damages related to the manifestation of a latent disease. The remedies in this chapter are in addition to those provided by existing statutory or common law.

(e) This section does not preclude a court from certifying a class action for medical monitoring damages.

* * * Effective Date * * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 4-1-0)

S. 204.

An act relating to the registration of short-term rentals.

Reported favorably with recommendation of amendment by Senator Sirotkin 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. 18 V.S.A. chapter 85 is amended to read:

CHAPTER 85. FOOD AND LODGING ESTABLISHMENTS

* * *

Subchapter 7. Short-Term Rentals

§ 4466. REGISTRATION OF SHORT-TERM RENTALS

(a) After January 1, 2019, a person shall not operate or maintain a short-term rental unless he or she registers with the Department and obtains and holds a valid certificate of compliance.

(b) Prior to offering for rent a short-term rental, a person shall register with the Commissioner by completing forms published by the Department and paying a registration fee as provided in section 4470 of this title.

(c) A person registering shall certify on the registration forms published by the Department that the short-term rental is in compliance with the following provisions:

(1) The unit does not have any known violations of relevant State and local fire, life safety, and zoning laws and rules and has all smoke and carbon monoxide detectors as required by 9 V.S.A. chapter 77.

(2) Each guest room is free of any evidence of insects, rodents, and other pests.

(3) If the unit utilizes water from a nonpublic water supply system, it does not have any known violations of Vermont's water supply rules.

(4) All sewage is disposed of through an approved facility, including either:

(A) a public sewage treatment plant; or

(B) an individual sewage disposal system that does not have any known violations of the Department of Environmental Conservation's rules and other applicable sanitation requirements.

(5) The registrant of the short-term rental is aware of his or her responsibility for the rooms tax described pursuant to 32 V.S.A. chapter 225 and other applicable local taxes and that failure to pay these taxes may result in suspension or revocation of the registrant's certificate of compliance.

(d)(1) The prospective registrant shall submit a registration application to the Department not fewer than 14 calendar days prior to offering a short-term rental for occupancy, except for those reservations established prior to January 1, 2019.

(2) The Department shall award an initial certificate of compliance upon receipt of the applicant's completed registration application and registration fee. The certificate of compliance shall state that the registrant has self-certified compliance with health and safety laws and regulations pursuant to subdivision (c) of this section and that the Department has not licensed or inspected the property.

(e) All certificates of compliance shall be displayed in a manner so as to be easily viewed by those occupying the short-term rental unit.

(f) Any prospective registrant aggrieved by a decision of the Department may appeal to the Board of Health pursuant to subsection 4351(e) of this title.

§ 4467. TERM; CERTIFICATE OF COMPLIANCE

A certificate of compliance shall expire one year after its date of issuance and may be renewed, if the certificate holder is in good standing with the Department, upon the payment of a new registration fee and the filing of a new self-certification registration form pursuant to subdivision 4466(c) of this title.

§ 4468. ADVERTISEMENT ON INTERNET-BASED PLATFORMS

A short-term rental registrant shall not advertise on an Internet-based platform without posting publicly on the platform the registrant's certificate of compliance number issued by the Department.

§ 4469. INSPECTION

(a) The Commissioner may inspect through his or her duly authorized officers, inspectors, agents, or assistants, at all reasonable times, a short-term rental and the registrant's records related to the short-term rental.

(b) Whenever an inspection demonstrates that the short-term rental is not operated in accordance with the provisions of this chapter, the officer, inspector, agent, or assistant shall notify the registrant of the conditions found and shall direct necessary changes.

(c) Nothing in this section shall be construed to supersede the authority and responsibilities of the Division of Fire Safety. The Division's Executive Director shall inform the Commissioner in a timely manner of any enforcement actions that the Division has taken against the registrant of a short-term rental.

§ 4470. FEES; REGISTRATION

At the time of registration or registration renewal, a short-term rental unit registrant shall pay to the Department the same fee as required pursuant to subdivision 4353(a)(2)(I).

§ 4471. ENFORCEMENT

(a) If a person is found to be in violation of this subchapter, the Commissioner shall issue a written notice and an order requiring both abatement of the violation and compliance with this subchapter within a reasonable period of time.

(b) A person upon whom the notice and order are served shall have an

opportunity for a hearing at which he or she may show cause for vacating or amending the order. If it appears that the provisions of this chapter have not been violated, the Commissioner shall immediately vacate the order without prejudice. Conversely, if it appears that the provisions of this chapter have been violated and the person fails to comply with the order issued by the Commissioner, the Commissioner shall revoke, modify, or suspend the person's certificate of compliance or enforce a civil penalty pursuant to section 4309 of this title, or both.

§ 4472. MUNICIPAL AUTHORIZATION

A town, city, or incorporated village may use its ordinance authority to provide for more stringent health and safety regulations than those provided in this subchapter.

Sec. 2. EDUCATIONAL MATERIALS; SHORT-TERM RENTALS

(a) The Commissioner of Health shall prepare and publish on the Department's website educational materials for short-term rental registrants, including an explanation of all the requirements in 18 V.S.A. chapter 85, subchapter 7 and information regarding the importance of and coverage options for liability insurance.

(b) As used in this section, "short-term rental" shall have the same meaning as in 18 V.S.A. § 4301.

Sec. 3. REPORTS

(a) The Commissioner of Health shall submit the following written reports to the House Committees on Commerce and Economic Development and on Human Services and to the Senate Committees on Economic Development, Housing and General Affairs and on Health and Welfare:

(1) on or before September 1, 2018 and on or before January 1, 2019, a report detailing the Department's progress in preparing for implementation of 18 V.S.A. chapter 85, subchapter 7; and

(2) on or before January 1, 2020, a report identifying any gaps or weaknesses related to the regulation of short-term rentals pursuant to 18 V.S.A. chapter 85, subchapter 7, data related to the number of registered short-term rental units and the collection of taxes, and any recommendations for legislative action.

(b) In preparing the reports required pursuant to subsection (a) of this section, the Commissioner shall consult with and accept written comments from the following:

(1) the Commissioner of Tourism and Marketing or designee;

- (2) the Commissioner of Taxes or designee;
 - (3) the Executive Director of the Department of Public Safety's Division of Fire Safety;
 - (4) the Vermont Lodging Association;
 - (5) the Vermont Inn and Bed and Breakfast Association;
 - (6) one or more owners of short-term rentals in Vermont;
 - (7) one or more representatives of an online short-term rental property platform operating in Vermont; and
 - (8) one or more Vermonters with significant experience using an online short-term rental property platform to rent short-term rentals.
- (c) As used in this section, "short-term rental" shall have the same meaning as in 18 V.S.A. § 4301.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

S. 224.

An act relating to co-payment limits for visits to chiropractors.

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

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. 8 V.S.A. § 4088a is amended to read:

§ 4088a. CHIROPRACTIC SERVICES

(a)(1) A health insurance plan shall provide coverage for clinically necessary health care services provided by a chiropractic physician licensed in this State for treatment within the scope of practice described in 26 V.S.A. chapter 10, but limiting adjunctive therapies to physiotherapy modalities and rehabilitative exercises. A health insurance plan does not have to provide coverage for the treatment of any visceral condition arising from problems or dysfunctions of the abdominal or thoracic organs.

(2) A health insurer may require that the chiropractic services be provided by a licensed chiropractic physician under contract with the insurer or upon referral from a health care provider under contract with the insurer.

(3) Health care services provided by chiropractic physicians may be subject to reasonable deductibles, co-payment and co-insurance amounts, fee or benefit limits, practice parameters, and utilization review consistent with any applicable regulations published by the Department of Financial Regulation; provided that any such amounts, limits, and review shall not function to direct treatment in a manner unfairly discriminative against chiropractic care, and collectively shall be no more restrictive than those applicable under the same policy to care or services provided by other health care providers but allowing for the management of the benefit consistent with variations in practice patterns and treatment modalities among different types of health care providers.

(4) For qualified health benefit plans offered pursuant to 33 V.S.A. chapter 18, subchapter 1, health care services provided by a chiropractic physician may be subject to a co-payment requirement as long as the required co-payment amount is not greater than the amount of the co-payment applicable to care and services provided by a primary care provider under the plan.

(5) Nothing ~~herein~~ contained in this section shall be construed as impeding or preventing either the provision or coverage of health care services by licensed chiropractic physicians, within the lawful scope of chiropractic practice, in hospital facilities on a staff or employee basis.

* * *

Sec. 2. CHIROPRACTIC CO-PAYMENT LIMITS; PROSPECTIVE REPEAL

8 V.S.A. § 4088a(a)(4) (co-payment amounts for qualified health benefit plans) is repealed on January 1, 2022.

Sec. 3. CHIROPRACTIC CO-PAYMENT LIMITS; IMPACT REPORT

On or before January 15, 2021, the Green Mountain Care Board shall submit a report, to be prepared in consultation with the Department of Vermont Health Access and the health insurance carriers offering qualified health benefit plans on the Vermont Health Benefit Exchange, to the House Committee on Health Care and the Senate Committee on Finance regarding the impact of the chiropractic co-payment limits for qualified health benefit plans required by Sec. 1 of this act on utilization of chiropractic services, on the plans' premium rates, on the plans' actuarial values, and on plan designs, including any impacts on the cost-sharing levels and amounts for other health care services.

Sec. 4. HEALTH INSURANCE RATE FILINGS; COMPLIANCE WITH CHIROPRACTIC CO-PAYMENT LIMITS

In conjunction with their qualified health benefit plan premium rate filings for plan years 2019, 2020, and 2021, each health insurance carrier shall provide information to the Green Mountain Care Board regarding any modifications to their proposed rates that are attributable to a plan's compliance with the co-payment limits for chiropractic care required by Sec. 1 of this act.

Sec. 5. EFFECTIVE DATES

(a) Sec. 1 (8 V.S.A. § 4088a) shall take effect on January 1, 2019 and shall apply to all health insurance plans issued on and after January 1, 2019 on such date as a health insurer offers, issues, or renews the health insurance plan, but in no event later than January 1, 2020.

(b) The remaining sections shall take effect on passage.

S. 257.

An act relating to miscellaneous changes to education law.

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:

* * * Out-of-state Independent Schools * * *

Sec. 1. 16 V.S.A. § 822 is amended to read:

§ 822. SCHOOL DISTRICT TO MAINTAIN PUBLIC HIGH SCHOOLS OR PAY TUITION

(a) Each school district shall maintain one or more approved high schools in which high school education is provided for its resident students unless:

(1) the electorate authorizes the school board to close an existing high school and to provide for the high school education of its students by paying tuition to a public high school, an approved independent high school, or an independent school meeting education quality standards, to be selected by the parents or guardians of the student, ~~within or outside the State~~; or

* * *

Sec. 2. 16 V.S.A. § 828 is amended to read:

§ 828. TUITION TO APPROVED SCHOOLS; AGE; APPEAL

(a) A school district shall not pay the tuition of a student except to:

- (1) a public school;
- (2) an approved independent school, in Vermont;
- (3) an independent school in Vermont meeting education quality standards;
- (4) a tutorial program approved by the State Board;
- (5) an approved education program;
- (6) an independent school in another state ~~or country~~ approved under the laws of that state ~~or country~~, nor shall payment that is either:
 - (A) contiguous to Vermont; or
 - (B) in a state that pays publicly funded tuition for its resident students to attend a public or approved independent school in Vermont; or
- (7) a school to which a student on an individualized education plan has been referred or placed by the student's individualized education plan team or local education agency.

(b) Payment of tuition on behalf of a person shall not be denied on account of age.

(c) Unless otherwise provided, a person who is aggrieved by a decision of a school board relating to eligibility for tuition payments, the amount of tuition payable, or the school he or she may attend, may appeal to the State Board and its decision shall be final.

Sec. 3. TRANSITION

Notwithstanding Sec. 2 of this act, a school district may pay tuition on behalf of a student to an approved independent school that is located in a state that is not contiguous to Vermont or in a state that does not pay publicly funded tuition for its resident students to attend a public or approved independent school in Vermont if, during the 2017-2018 school year, the student attended that school; provided that tuition shall be paid for no more than four years after enactment of this act.

* * * Dual Enrollment; Parochial Schools * * *

Sec. 4. 16 V.S.A. § 944 is amended to read:

§ 944. DUAL ENROLLMENT PROGRAM

(a) Program creation. There is created a the statewide Dual Enrollment Program to be a potential component of a student's flexible pathway. The Program shall include college courses offered on the campus of an accredited postsecondary institution and college courses offered by an accredited postsecondary institution on the campus of a secondary school. The Program may include online college courses or components.

(b) Students.

(1) A Vermont resident who has completed grade 10 but has not received a high school diploma is eligible to participate in the Program if:

(A) the student:

(i) is enrolled in:

(I) a Vermont public school, including a Vermont career technical center;

(II) a public school in another state or an approved independent school that is designated as the public secondary school for the student's district of residence; or

(III) an approved independent school in Vermont ~~to which the student's district of residence pays publicly funded tuition on behalf of the student;~~

(ii) is assigned to a public school through the High School Completion Program; or

(iii) is a home study student;

* * *

* * * Child Abuse and Neglect Hotline * * *

Sec. 5. 16 V.S.A. § 914 is added to read:

§ 914. CHILD ABUSE AND NEGLECT HOTLINE

Each public school and each independent school shall post, in a place clearly visible to students and on its website, the toll-free telephone number operated by the Department for Children and Families to receive reports of child abuse and neglect and directions for accessing the office of the Department for Children and Families. The postings shall be in English and Spanish.

* * * Postsecondary Educational Institutions; Closing * * *

Sec. 6. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

(a) When an institution of higher education, whether or not chartered in this State, proposes to discontinue the regular course of instruction, either permanently or for a temporary period other than a customary vacation period, the institution shall:

(1) promptly inform the State Board;

(2) prepare the academic record of each current and former student in a form satisfactory to the State Board and including interpretive information required by the Board; and

(3) deliver the records to a person designated by the State Board to act as permanent repository for the institution's records, together with the reasonable cost of entering and maintaining the records.

* * *

(d) When an institution of higher education is unable or unwilling to comply substantially with the record preparation and delivery requirements of subsection (a) of this section, the State Board shall bring an action in Superior Court to compel compliance with this section, and may in a proper case obtain temporary custody of the records.

(e) When an institution of higher education is unable or unwilling to comply with the requirements of subsection (a) of this section, the State Board may expend State funds necessary to ensure the proper storage and availability of the institution's records. The Attorney General shall then seek recovery under this subsection, in the name of the State, of all of the State's incurred costs and expenses, including attorney's fees, arising from the failure to comply. Claims under this subsection shall be a lien on all the property of a defaulting institution, until all claims under this subsection are satisfied. The lien shall take effect from the date of filing notice thereof in the records of the town or towns where property of the defaulting institution is located.

* * *

~~(g)(1) The Association of Vermont Independent Colleges (AVIC) shall maintain a memorandum of understanding with each of its member colleges under which each member college agrees to:~~

~~(1) upon the request of AVIC, properly administer the student records of a member college that fails to comply with the requirements of subsection (a) of this section; and~~

~~(2) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another AVIC member or other entity selected by AVIC maintaining the records of a member college that fails to comply with the requirements of subsection (a) of this section. If an institution of higher education is placed on probation for financial reasons by its accrediting agency, the institution shall, not later than two days after learning that it has been placed on probation, inform the State Board of Education of its status, and not later than 90 days after being place on probation, shall submit a student record plan to the State Board for approval.~~

(2) The student record plan shall include an agreement with an institution of higher education or other entity to act as a repository for the institution's records with funds set aside, if necessary, for the permanent maintenance of the student records.

(3) If the State Board does not approve the plan, the State may take action under subsections (d) and (e) of this section.

* * * Interstate School District * * *

Sec. 7. INTERSTATE SCHOOL DISTRICT

In order to increase educational opportunities for students in the Stamford school district, and given the geographic and other challenges involved in merging the Stamford school district with another Vermont school district, the General Assembly supports the creation of an interstate school district that would combine the Stamford school district with the Clarksburg, Massachusetts, school district.

* * * Elections to Unified Union School District Board * * *

Sec. 8. ELECTIONS TO UNIFIED UNION SCHOOL DISTRICT BOARD

(a) Notwithstanding any provision to the contrary, the election of a director on the board of a unified union school district who is to serve on the board after expiration of the term for an initial director shall be held at the unified union school district's annual meeting in accordance with the district's articles of agreement.

(b) Notwithstanding any provision to the contrary, if a vacancy occurs on the board of a unified union school district and the vacancy is in a seat that is allocated to a specific town, the clerk shall immediately notify the selectboard of the town. Within 30 days of the receipt of that notice, the unified union school district board, in consultation with the selectboard, shall appoint a person who is otherwise eligible to serve as a member of the unified union school district board to fill the vacancy until an election is held in accordance with the unified union school district's articles of agreement.

(c) This section is repealed on July 1, 2019.

* * * Technical Correction * * *

Sec. 9. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

* * *

(2) “Enrollment” means the number of students who are enrolled in a school operated by the district on October 1. A student shall be counted as one whether the student is enrolled as a full-time or part-time student. Students enrolled in prekindergarten programs shall not be counted.

* * *

* * * Prekindergarten Education * * *

Sec. 10. 16 V.S.A. § 829 is amended to read:

§ 829. PREKINDERGARTEN EDUCATION

(a) Definitions. As used in this section:

(1) “Prekindergarten child” means a child who, as of the date established by the district of residence for kindergarten eligibility, is:

(A) three or four years of age or is five years of age but is not yet eligible to be enrolled in kindergarten; or

(B) five years of age but is not yet enrolled in kindergarten if the child is on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973 and the child’s individualized education program team or evaluation and planning team recommends that the child receive prekindergarten education services.

(2) “Prekindergarten education” means services designed to provide to prekindergarten children developmentally appropriate early development and learning experiences based on Vermont’s early learning standards.

(3) ~~“Prequalified private Private provider”~~ means a private provider of prekindergarten education that is ~~qualified pursuant to subsection (c) of this section~~ regulated as a center-based child care program or family child care home to provide child care by the Child Development Division of the Department for Children and Families.

(4) “Public provider” means a provider of prekindergarten education that is a school district.

(b) Access to publicly funded prekindergarten education.

(1) ~~No~~ Not fewer than ten hours per week of publicly funded prekindergarten education shall be available for 35 weeks annually to each prekindergarten child whom a parent or guardian wishes to enroll in an available, ~~prequalified prekindergarten education program operated by a public school or a private provider.~~

(2) If a parent or guardian chooses to enroll a prekindergarten child in an available, ~~prequalified prekindergarten education program,~~ then, pursuant

to the parent or guardian's choice, the school district of residence Secretary shall:

(A) pay tuition pursuant to ~~subsections (d) and (h)~~ subsection (d) of this section upon the request of the parent or guardian to:

~~(i)~~(A) a prequalified private provider located in Vermont; or

~~(ii)~~(B) a Vermont public school that operates a prekindergarten education program whether located inside or outside the district that operates a prekindergarten program that has been prequalified pursuant to subsection (c) of this section; or

~~(B)~~ enroll the child in the prekindergarten education program that it operates in which the child resides.

(3) If requested by the parent or guardian of a prekindergarten child, the school district of residence shall pay tuition to a prequalified program operated by a private provider or a public school in another district even if the district of residence operates a prekindergarten education program.

~~(4)~~ If the supply of prequalified private and public providers is insufficient to meet the demand for publicly funded prekindergarten education in any region of the State, ~~nothing~~ Nothing in this section shall be construed to require the State or a district to begin or expand a prekindergarten education program to satisfy that demand; but rather, in collaboration with the Agencies of Education and of Human Services, the local Building Bright Futures Council shall meet with school districts and private providers in the region to develop a regional plan to expand capacity for prekindergarten education.

~~(c) Prequalification. Pursuant to rules jointly developed and overseen by the Secretaries of Education and of Human Services and adopted by the State Board pursuant to 3 V.S.A. chapter 25, the Agencies jointly may determine that a private or public provider of prekindergarten education is qualified for purposes of this section and include the provider in a publicly accessible database of prequalified providers. At a minimum, the rules shall define the process by which a provider applies for and maintains prequalification status, shall identify the minimum quality standards for prequalification, and shall include the following requirements~~ Provider qualification. In order to be eligible for tuition payments:

~~(1) A program of prekindergarten education, whether provided by a school district or a private provider, shall have received~~ private provider shall meet minimum program quality by:

~~(A)~~ having National Association for the Education of Young Children (NAEYC) accreditation; or

~~(B) at least four stars in the Department for Children and Families' STARS system with a plan to get to at least two points in each of the five arenas; or and~~

~~(C) three stars in the STARS system if the provider has developed a plan, approved by the Commissioner for Children and Families and the Secretary of Education, to achieve four or more stars with at least two points in each of the five arenas in no more than three years, and the provider has met intermediate milestones~~

(B)(i) for a private provider that is regulated as a center-based child care program, employing or contracting for the services of at least one teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title who is present at the private provider's program site during the hours that are publicly funded; or

(ii) for a private provider that is regulated as a family child care home that is not licensed and endorsed in early childhood education or early childhood special education, employing or contracting for the services of at least one teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title for at least three hours per week during each of the 35 weeks per year in which prekindergarten education is paid for with publicly funded tuition to provide regular, active supervision and training of the private provider's staff.

(2) A licensed public provider shall employ or contract meet minimum program quality by:

(A) employing or contracting for the services of at least one teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title to provide direct instruction during the hours that are publicly funded; and

(B) meeting safety and quality rules adopted by the State Board of Education.

~~(3) A registered home provider that is not licensed and endorsed in early childhood education or early childhood special education shall receive regular, active supervision and training from a teacher who is licensed and endorsed in early childhood education or in early childhood special education under chapter 51 of this title.~~

(d) Tuition, budgets payments, and average daily membership.

(1) On behalf of a resident prekindergarten child, a district ~~the Secretary~~ shall pay tuition for prekindergarten education for ten hours per week for 35 weeks annually to a ~~prequalified~~ private provider or to a public school outside the district that is ~~prequalified pursuant to subsection (c) of this~~

~~section; provided, however, that the district shall pay tuition for weeks that are within the district's academic year provider. Tuition~~ Notwithstanding subsection 4025(d) of this title, tuition paid under this section shall be paid from the Education Fund at a statewide rate, which may be adjusted regionally, that is established annually through a process jointly developed and implemented by the Agencies Agency of Education and of Human Services. A district shall pay tuition upon The Secretary shall establish procedures for payment of tuition to public and private providers that require at a minimum receiving:

(A) ~~receiving annual notice from the child's parent or guardian that the child is or will be admitted to the~~ chooses to participate in a publicly funded prekindergarten education program operated by the prequalified public or private provider or the other district; and

(B) ~~concurrent enrollment of the prekindergarten child in the district of residence for purposes of budgeting and determining average daily membership~~ notice from the public or private provider that the child is enrolled in its program; and

(C) a request for reimbursement from the public or private provider that reports enrollment for the period covered by the request and certifies that the provider is eligible for public funding under subsection (c) of this section for the period covered by the request.

(2) ~~In addition to any direct costs of operating a prekindergarten education program, a district of residence shall include anticipated tuition payments and any administrative, quality assurance, quality improvement, transition planning, or other prekindergarten-related costs in its annual budget presented to the voters.~~

(3) ~~Pursuant to subdivision 4001(1)(C) of this title, the district of residence~~ a district in which the child resides may include within its average daily membership any prekindergarten child for whom it has provided prekindergarten education or on whose behalf it has paid tuition pursuant to this section in excess of ten hours per week for 35 weeks annually and the district shall not charge tuition for these educational services.

(4)(3) A prequalified private provider, or a public provider that is not the child's district of residence, may receive additional payment directly from the parent or guardian only for prekindergarten education in excess of the publicly funded hours paid for by the district pursuant to this section subsection (d) or for child care services, or both. The provider is not bound by the statewide rate established in this subsection when determining the rates it will charge the parent or guardian for these excess hours. A provider shall not impose additional fees for the publicly funded hours.

~~(e) Rules. The Secretary of Education and the Commissioner for Children and Families shall jointly develop and agree to rules and present them shall propose rules to the State Board for adoption under 3 V.S.A. chapter 25 as follows:~~

~~(1) To permit private providers that are not prequalified pursuant to subsection (c) of this section to create new or continue existing partnerships with school districts through which the school district provides supports that enable the provider to fulfill the requirements of subdivision (c)(2) or (3), and through which the district may or may not make in-kind payments as a component of the statewide tuition established under this section.~~

~~(2) To authorize a district to begin or expand a school-based prekindergarten education program only upon prior approval obtained through a process jointly overseen by the Secretaries of Education and of Human Services, which shall be based upon analysis of the number of prekindergarten children residing in the district and the availability of enrollment opportunities with prequalified private providers in the region. Where the data are not clear or there are other complex considerations, the Secretaries may choose to conduct a community needs assessment.~~

~~(3) To require that the school district provides opportunities for effective parental participation in the prekindergarten education program.~~

~~(4) To establish a process by which:~~

~~(A) a parent or guardian notifies the district that the prekindergarten child is or will be admitted to a prekindergarten education program not operated by the district and concurrently enrolls the child in the district pursuant to subdivision (d)(1) of this section;~~

~~(B) a district:~~

~~(i) pays tuition pursuant to a schedule that does not inhibit the ability of a parent or guardian to enroll a prekindergarten child in a prekindergarten education program or the ability of a prequalified private provider to maintain financial stability; and~~

~~(ii) enters into an agreement with any provider to which it will pay tuition regarding quality assurance, transition, and any other matters; and~~

~~(C) a provider that has received tuition payments under this section on behalf of a prekindergarten child notifies a district that the child is no longer enrolled.~~

~~(5) To establish a process to calculate an annual statewide tuition rate that is based upon the actual cost of delivering ten hours per week of prekindergarten education that meets all established quality standards and to~~

allow for regional adjustments to the rate.

~~(6) [Repealed.]~~

~~(7) To require a district to include identifiable costs for prekindergarten programs and essential early education services in its annual budgets and reports to the community.~~

~~(8) To require a district to report to the Agency of Education annual expenditures made in support of prekindergarten education, with distinct figures provided for expenditures made from the General Fund, from the Education Fund, and from all other sources, which shall be specified.~~

~~(9) To provide an administrative process for:~~

~~(A) a parent, guardian, or provider to challenge an action of a school district or the State when the complainant believes that the district or State is in violation of State statute or rules regarding prekindergarten education; and~~

~~(B) a school district to challenge an action of a provider or the State when the district believes that the provider or the State is in violation of State statute or rules regarding prekindergarten education.~~

~~(10) To establish a system by which the Agency of Education and Department for Children and Families shall jointly monitor and evaluate prekindergarten education programs to promote optimal results for children that support the relevant population-level outcomes set forth in 3 V.S.A. § 2311 and to collect data that will inform future decisions. The Agency and Department shall be required to report annually to the General Assembly in January. At a minimum, the system shall monitor and evaluate:~~

~~(A) programmatic details, including the number of children served, the number of private and public programs operated, and the public financial investment made to ensure access to quality prekindergarten education;~~

~~(B) the quality of public and private prekindergarten education programs and efforts to ensure continuous quality improvements through mentoring, training, technical assistance, and otherwise; and~~

~~(C) the results for children, including school readiness and proficiency in numeracy and literacy.~~

~~(11) To establish a process for documenting the progress of children enrolled in prekindergarten education programs and to require public and private providers to use the process to:~~

~~(A) help individualize instruction and improve program practice; and~~

~~(B) collect and report child progress data to the Secretary of Education on an annual basis.~~

(1) To require that the Secretary provide opportunities for effective parental participation in the prekindergarten education program.

(2) To establish a process by which tuition payments are requested and made that includes the conditions in subdivisions (d)(1)(A)–(C) of this section.

(3) To establish a process to calculate an annual statewide tuition rate that is based upon the actual cost of delivering ten hours per week of prekindergarten education meeting all established quality standards and to allow for regional adjustments to the rate.

(4) To provide an administrative process for:

(A) a parent or guardian to challenge a provider’s action or inaction with respect to enrollment or billing; and

(B) a provider to appeal a decision of the Secretary not to pay a request for reimbursement.

(5) To establish a system by which the Secretary shall evaluate implementation of publicly funded prekindergarten education programs to promote optimal results for children that support the relevant population-level outcomes set forth in 3 V.S.A. § 2311 and collect data that will inform future decisions. The Secretary shall report annually to the General Assembly in January on the prior year. At a minimum, the system shall evaluate:

(A) programmatic details, including the total number of children enrolled and the number of children enrolled in private programs and in public programs, the number of private and public programs operated, , and the public financial investment made to ensure access to quality prekindergarten education;

(B) the quality criteria of public and private kindergarten education programs, training, and technical assistance; and

(C) the results for children, including school readiness, proficiency in numeracy and literacy, and social and emotional development.

(6) To establish a process for documenting the progress of children enrolled in publicly funded prekindergarten education programs and to require public and private providers to use the process to:

(A) help individualize instruction and improve program practice; and

(B) collect and report child progress data as required by the Secretary on an annual basis.

(7) To establish safety and quality requirements for public providers. In establishing these safety and quality requirements, the Secretary shall consult with the Agency of Human Services and recommend to the State Board safety

and quality requirements that align with the requirements for private providers, except to the extent that the Secretary determines that there are compelling reasons that are unique to the public school environment that justify applying different requirements.

~~(f) Other provisions of law. Section 836 of this title shall not apply to this section.~~

~~(g) Limitations. Nothing in this section shall be construed to permit or require payment of public funds to a private provider of prekindergarten education in violation of Chapter I, Article 3 of the Vermont Constitution or in violation of the Establishment Clause of the U.S. Constitution.~~

~~(h) Geographic limitations.~~

~~(1) Notwithstanding the requirement that a district pay tuition to any prequalified public or private provider in the State, a school board may choose to limit the geographic boundaries within which the district shall pay tuition by paying tuition solely to those prequalified providers in which parents and guardians choose to enroll resident prekindergarten children that are located within the district's "prekindergarten region" as determined in subdivision (2) of this subsection.~~

~~(2) For purposes of this subsection, upon application from the school board, a district's prekindergarten region shall be determined jointly by the Agencies of Education and of Human Services in consultation with the school board, private providers of prekindergarten education, parents and guardians of prekindergarten children, and other interested parties pursuant to a process adopted by rule under subsection (e) of this section. A prekindergarten region:~~

~~(A) shall not be smaller than the geographic boundaries of the school district;~~

~~(B) shall be based in part upon the estimated number of prekindergarten children residing in the district and in surrounding districts, the availability of prequalified private and public providers of prekindergarten education, commuting patterns, and other region-specific criteria; and~~

~~(C) shall be designed to support existing partnerships between the school district and private providers of prekindergarten education.~~

~~(3) If a school board chooses to pay tuition to providers solely within its prekindergarten region, and if a resident prekindergarten child is unable to access publicly funded prekindergarten education within that region, then the child's parent or guardian may request and in its discretion the district may pay tuition at the statewide rate for a prekindergarten education program operated by a prequalified provider located outside the prekindergarten region.~~

~~(4) Except for the narrow exception permitting a school board to limit geographic boundaries under subdivision (1) of this subsection, all other provisions of this section and related rules shall continue to apply.~~

Sec. 11. 16 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

As used in this chapter:

(1) “Average daily membership” of a school district, or if needed in order to calculate the appropriate homestead tax rate, of the municipality as defined in 32 V.S.A. § 5401(9), in any year means:

* * *

~~(C) The full-time equivalent enrollment for each prekindergarten child as follows: If a child is enrolled in 10 or more hours of prekindergarten education per week or receives 10 or more hours of essential early education services per week, the child shall be counted as one full-time equivalent pupil. If a child is enrolled in six or more but fewer than 10 hours of prekindergarten education per week or if a child receives fewer than 10 hours of essential early education services per week, the child shall be counted as a percentage of one full-time equivalent pupil, calculated as one multiplied by the number of hours per week divided by ten. A child enrolled in prekindergarten education for fewer than six hours per week shall not be included in the district’s average daily membership enrolled in excess of ten hours in a public school in the district in which the child resides prorated to reflect the hours of education provided by the school up to an additional ten hours. There is no limit on the total number of children who may be enrolled in prekindergarten education or who receive essential early education services.~~

* * *

Sec. 12. 33 V.S.A. § 3502 is amended to read:

§ 3502. CHILD CARE FACILITIES; SCHOOL AGE CARE IN PUBLIC SCHOOLS; 21ST CENTURY FUND

(a) Unless exempted under subsection (b) of this section, a person shall not operate a child care facility without a license, or operate a family child care home without registration from the Department.

(b) The following persons are exempted from the provisions of subsection (a) of this section:

* * *

(5) an after-school program that serves students in one or more grades from kindergarten through secondary school, that receives funding through the

21st Century Community Learning Centers program, and that is overseen by the Agency of Education, unless the after-school program asks to participate in the child care subsidy program; and

(6) a public provider of prekindergarten education, as defined under 16 V.S.A. § 829(a)(4), unless the public provider participates in the child care subsidy program.

* * *

Sec. 13. 16 V.S.A. § 11 is amended to read:

§ 11. CLASSIFICATIONS AND DEFINITIONS

(a) As used in this title, unless the context otherwise clearly requires:

* * *

(31) “Early childhood education,” “early education,” or “prekindergarten education” means services designed to provide developmentally appropriate early development and learning experiences based on Vermont’s early learning standards to ~~children a child who are three to four years of age and to five-year-old children who are not eligible for or enrolled in kindergarten.~~ is:

(A) three or four years of age or is five years of age but is not yet eligible to be enrolled in kindergarten; or

(B) five years of age but is not yet enrolled in kindergarten if the child is on an individualized education program or a plan under Section 504 of the Rehabilitation Act of 1973 and the child’s individualized education program team or evaluation and planning team recommends that the child receive prekindergarten education services.

* * *

* * * School Radon Mitigation Study Committee * * *

Sec. 14. SCHOOL RADON MITIGATION STUDY COMMITTEE

(a) Creation. There is created the School Radon Mitigation Study Committee to explore funding opportunities for the mitigation of elevated radon concentrations in schools and contingency plans for the loss of related federal funding.

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

(1) the State Treasurer or designee;

(2) the Secretary of Education or designee;

- (3) the Commissioner of Health or designee;
- (4) a member appointed by the State School Boards Association;
- (5) a member appointed by the Vermont Superintendents Association;
- (6) a member appointed by the Vermont Independent Schools Association; and
- (7) a radon mitigation professional certified for testing and mitigation by the National Radon Proficiency Program, appointed by the Director of the Department of Labor's Workers' Compensation and Safety Division.

(c) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Agency of Education.

(d) Report. On or before December 15, 2018, the Committee shall submit a written report to the House and Senate Committees on Education containing viable options for funding the mitigation of elevated radon concentrations in schools.

(e) Meetings.

(1) The State Treasurer or designee shall call the first meeting of the Committee to occur on or before October 1, 2018.

(2) The Committee shall select a chair from among its members at the first meeting.

(3) The Committee shall cease to exist on December 31, 2018.

(f) Compensation and reimbursement. Members of the Committee who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than four meetings. These payments shall be made from monies appropriated to the Agency of Education.

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

(a) Secs. 9-13 shall take effect on July 1, 2019.

(b) The remaining sections shall take effect on July 1, 2018.

(Committee vote: 6-0-0)

CONCURRENT RESOLUTIONS FOR ACTION

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).