

Senate Calendar

MONDAY, APRIL 30, 2018

SENATE CONVENES AT: 11:00 A.M.

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ACTION CALENDAR

UNFINISHED BUSINESS OF WEDNESDAY, APRIL 25, 2018

House Proposal of Amendment

S. 92

An act relating to interchangeable biological products.

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

* * * Interchangeable Biological Products * * *

Sec. 1. 18 V.S.A. § 4601 is amended to read:

§ 4601. DEFINITIONS

~~For the purposes of this chapter, unless the context otherwise clearly requires~~ As used in this chapter:

(1) ~~“Brand name” means the registered trademark name given to a drug product by its manufacturer or distributor; “Biological product” means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein (except any chemically synthesized polypeptide), or analogous product, or arsphenamine or derivative of arsphenamine (or any other trivalent organic arsenic compound), applicable to the prevention, treatment, or cure of a disease or condition in human beings.~~

(2) ~~“Generic name” means the official name of a drug product as established by the United States Adopted Names Council (USAN) or its successor, if applicable; “Brand name” means the registered trademark name given to a drug product by its manufacturer or distributor.~~

(3) ~~“Pharmacist” means a natural person licensed by the state board of pharmacy to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons;~~

(4) ~~“Generic drug” means a drug listed by generic name and considered to be chemically and therapeutically equivalent to a drug listed by brand name, as both names are identified in the most recent edition of or supplement to the federal U.S. Food and Drug Administration’s “Orange Book” of approved drug products; Approved Drug Products with Therapeutic Equivalence Evaluations (the Orange Book).~~

(4) “Generic name” means the official name of a drug product as established by the U. S. Adopted Names Council (USAN) or its successor, if applicable.

(5) “Interchangeable biological product” means a biological product that the U.S. Food and Drug Administration has:

(A) licensed and determined, pursuant to 42 U.S.C. § 262(k)(4), to be interchangeable with the reference product against which it was evaluated; or

(B) determined to be therapeutically equivalent as set forth in the latest edition of or supplement to the U.S. Food and Drug Administration’s Approved Drug Products with Therapeutic Equivalence Evaluations (the Orange Book).

(6) “Pharmacist” means a natural person licensed by the State Board of Pharmacy to prepare, compound, dispense, and sell drugs, medicines, chemicals, and poisons.

~~(5)~~(7) “Prescriber” means any duly licensed physician, dentist, veterinarian, or other practitioner licensed to write prescriptions for the treatment or prevention of disease in man or animal.

(8) “Proper name” means the non-proprietary name of a biological product.

(9) “Reference product” means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which the interchangeable biological product was evaluated by the U.S. Food and Drug Administration pursuant to 42 U.S.C. § 262(k).

Sec. 2. 18 V.S.A. § 4605 is amended to read:

§ 4605. ALTERNATIVE DRUG OR BIOLOGICAL PRODUCT SELECTION

(a)(1) When a pharmacist receives a prescription for a drug which that is listed either by generic name or brand name in the most recent edition of or supplement to the U.S. Department of Health and Human Services’ publication Approved Drug Products With Therapeutic Equivalence Evaluations (the “Orange Book”) of approved drug products, the pharmacist shall select the lowest priced drug from the list which is equivalent as defined by the “Orange Book,” unless otherwise instructed by the prescriber, or by the purchaser if the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser’s health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced drug.

(2) When a pharmacist receives a prescription for a biological product, the pharmacist shall select the lowest priced interchangeable biological product unless otherwise instructed by the prescriber, or by the purchaser if the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced biological product.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, when a pharmacist receives a prescription from a Medicaid beneficiary, the pharmacist shall select the preferred brand-name or generic drug or biological product from the Department of Vermont Health Access's preferred drug list.

(b) The purchaser shall be informed by the pharmacist or his or her representative that an alternative selection as provided under subsection (a) of this section will be made unless the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced drug or biological product.

(c) When refilling a prescription, pharmacists shall receive the consent of the prescriber to dispense a drug or biological product different from that originally dispensed, and shall inform the purchaser that a generic substitution shall be made pursuant to this section unless the purchaser agrees to pay any additional cost in excess of the benefits provided by the purchaser's health benefit plan if allowed under the legal requirements applicable to the plan, or otherwise to pay the full cost for the higher priced drug or biological product.

(d) Any pharmacist substituting a generically equivalent drug or interchangeable biological product shall charge no more than the usual and customary retail price for that selected drug or biological product. This charge shall not exceed the usual and customary retail price for the prescribed brand.

(e)(1) Except as described in subdivision (4) of this subsection, within five business days following the dispensing of a biological product, the dispensing pharmacist or designee shall communicate the specific biological product provided to the patient, including the biological product's name and manufacturer, by submitting the information in a format that is accessible to the prescriber electronically through one of the following:

(A) an interoperable electronic medical records system;

(B) an electronic prescribing technology;

(C) a pharmacy benefit management system; or

(D) a pharmacy record.

(2) Entry into an electronic records system as described in subdivision (1) of this subsection shall be presumed to provide notice to the prescriber.

(3)(A) If a pharmacy does not have access to one or more of the electronic systems described in subdivision (1) of this subsection (e), the pharmacist or designee shall communicate to the prescriber the information regarding the biological product dispensed using telephone, facsimile, electronic transmission, or other prevailing means.

(B) If a prescription is communicated to the pharmacy by means other than electronic prescribing technology, the pharmacist or designee shall communicate to the prescriber the information regarding the biological product dispensed using the electronic process described in subdivision (1) of this subsection (e) unless the prescriber requests a different means of communication on the prescription.

(4) Notwithstanding any provision of this subsection to the contrary, a pharmacist shall not be required to communicate information regarding the biological product dispensed in the following circumstances:

(A) the U.S. Food and Drug Administration has not approved any interchangeable biological products for the product prescribed; or

(B) the pharmacist dispensed a refill prescription in which the product dispensed was unchanged from the product dispensed at the prior filling of the prescription.

(f) The Board of Pharmacy shall maintain a link on its website to the current lists of all biological products that the U.S. Food and Drug Administration has determined to be interchangeable biological products.

Sec. 3. 18 V.S.A. § 4606 is amended to read:

§ 4606. BRAND CERTIFICATION

If the prescriber has determined that the generic equivalent of a drug or the interchangeable biological product for the biological product being prescribed has not been effective or with reasonable certainty is not expected to be effective in treating the patient's medical condition or causes or is reasonably expected to cause adverse or harmful reactions in the patient, the prescriber shall indicate "brand necessary," "no substitution," "dispense as written," or "DAW" in the prescriber's own handwriting on the prescription blank or shall indicate the same using electronic prescribing technology and the pharmacist shall not substitute the generic equivalent or interchangeable biological product. If a prescription is unwritten and the prescriber has determined that the generic equivalent of the drug or the interchangeable biological product for the biological product being prescribed has not been effective or with reasonable certainty is not expected to be effective in treating the patient's

medical condition or causes or is reasonably expected to cause adverse or harmful reactions in the patient, the prescriber shall expressly indicate to the pharmacist that the brand-name drug or biological product is necessary and substitution is not allowed and the pharmacist shall not substitute the generic equivalent drug or interchangeable biological product.

Sec. 4. 18 V.S.A. § 4607 is amended to read:

§ 4607. INFORMATION; LABELING

(a) Every pharmacy in the state State shall have posted a sign in a prominent place that is in clear unobstructed view which shall read: “Vermont law requires pharmacists in some cases to select a less expensive generic equivalent drug or interchangeable biological product for the drug or biological product prescribed unless you or your physician direct otherwise. Ask your pharmacist.”

(b) The label of the container of all drugs and biological products dispensed by a pharmacist under this chapter shall indicate the generic or proper name using an abbreviation if necessary, the strength of the drug or biological product, if applicable, and the name or number of the manufacturer or distributor.

Sec. 5. 18 V.S.A. § 4608 is amended to read:

§ 4608. LIABILITY

(a) Nothing in this chapter shall affect a licensed hospital with the development and maintenance of a hospital formulary system in accordance with that institution’s policies and procedures that pertain to its drug distribution system developed by the medical staff in cooperation with the hospital’s pharmacist and administration.

(b) The substitution of a generic drug or interchangeable biological product by a pharmacist under the provisions of this chapter does not constitute the practice of medicine.

Sec. 6. 8 V.S.A. § 4089i is amended to read:

§ 4089i. PRESCRIPTION DRUG COVERAGE

* * *

(g) A health insurance or other health benefit plan offered by a health insurer or by a pharmacy benefit manager on behalf of a health insurer that provides coverage for prescription drugs shall apply the same cost-sharing requirements to interchangeable biological products as apply to generic drugs under the plan.

(h) As used in this section:

* * *

(6) “Interchangeable biological products” shall have the same meaning as in 18 V.S.A. § 4601.

(h)(i) The Department of Financial Regulation shall enforce this section and may adopt rules as necessary to carry out the purposes of this section.

* * * Health Insurance Plan Reporting * * *

Sec. 7. 8 V.S.A. § 4062 is amended to read:

§ 4062. FILING AND APPROVAL OF POLICY FORMS AND PREMIUMS

* * *

(b)(1) In conjunction with a rate filing required by subsection (a) of this section, an insurer shall file a plain language summary of the proposed rate. All summaries shall include a brief justification of any rate increase requested, the information that the Secretary of the U.S. Department of Health and Human Services (HHS) requires for rate increases over 10 percent, and any other information required by the Board. The plain language summary shall be in the format required by the Secretary of HHS pursuant to the Patient Protection and Affordable Care Act of 2010, Public Law 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Public Law 111-152, and shall include notification of the public comment period established in subsection (c) of this section. In addition, the insurer shall post the summaries on its website.

(2)(A) In conjunction with a rate filing required by subsection (a) of this section, an insurer shall disclose to the Board:

(i) for all covered prescription drugs, including generic drugs, brand-name drugs excluding specialty drugs, and specialty drugs dispensed at a pharmacy, network pharmacy, or mail-order pharmacy for outpatient use:

(I) the percentage of the premium rate attributable to prescription drug costs for the prior year for each category of prescription drugs;

(II) the year-over-year increase or decrease, expressed as a percentage, in per-member, per-month total health plan spending on each category of prescription drugs; and

(III) the year-over-year increase or decrease in per-member, per-month costs for prescription drugs compared to other components of the premium rate; and

(ii) the specialty tier formulary list.

(B) The insurer shall provide, if available, the percentage of the premium rate attributable to prescription drugs administered by a health care provider in an outpatient setting that are part of the medical benefit as separate from the pharmacy benefit.

(C) The insurer shall include information on its use of a pharmacy benefit manager, if any, including which components of the prescription drug coverage described in subdivisions (A) and (B) of this subdivision (2) are managed by the pharmacy benefit manager, as well as the name of the pharmacy benefit manager or managers used.

(c)(1) The Board shall provide information to the public on the Board's website about the public availability of the filings and summaries required under this section.

~~(2)(A) Beginning no later than January 1, 2014, the~~ The Board shall post the rate filings pursuant to subsection (a) of this section and summaries pursuant to subsection (b) of this section on the Board's website within five calendar days of following filing. The Board shall also establish a mechanism by which members of the public may request to be notified automatically each time a proposed rate is filed with the Board.

* * *

Sec. 8. 18 V.S.A. § 4636 is added to read:

§ 4636. IMPACT OF PRESCRIPTION DRUG COSTS ON HEALTH INSURANCE PREMIUMS; REPORT

(a)(1) Each health insurer with more than 1,000 covered lives in this State shall report to the Green Mountain Care Board, for all covered prescription drugs, including generic drugs, brand-name drugs, and specialty drugs provided in an outpatient setting or sold in a retail setting:

(A) the 25 most frequently prescribed drugs and the average wholesale price for each drug;

(B) the 25 most costly drugs by total plan spending and the average wholesale price for each drug; and

(C) the 25 drugs with the highest year-over-year price increases and the average wholesale price for each drug.

(2) A health insurer shall not be required to provide to the Green Mountain Care Board the actual price paid, net of rebates, for any prescription drug.

(b) The Green Mountain Care Board shall compile the information reported pursuant to subsection (a) of this section into a consumer-friendly

report that demonstrates the overall impact of drug costs on health insurance premiums. The data in the report shall be aggregated and shall not reveal information as specific to a particular health benefit plan.

(c) The Board shall publish the report required pursuant to subsection (b) of this section on its website on or before January 1 of each year.

* * * Prescription Drug Price Transparency and Notice of
New High-Cost Drugs * * *

Sec. 9. 18 V.S.A. § 4635 is amended to read:

§ 4635. PHARMACEUTICAL PRESCRIPTION DRUG COST
TRANSPARENCY

(a) As used in this section:

(1) “Manufacturer” shall have the same meaning as “pharmaceutical manufacturer” in section 4631a of this title.

(2) “Prescription drug” means a drug as defined in 21 U.S.C. § 321.

(b)(1)(A) The Green Mountain Care Board, in collaboration with the Department of Vermont Health Access, shall identify create annually up to 15 a list of 10 prescription drugs on which the State spends significant health care dollars and for which the wholesale acquisition cost has increased by 50 percent or more over the past five years or by 15 percent or more over the past 12 months during the previous calendar year, creating a substantial public interest in understanding the development of the drugs’ pricing. The drugs identified shall represent different drug classes. The list shall include at least one generic and one brand-name drug and shall indicate each of the drugs on the list that the Department considers to be specialty drugs. The Department shall include the percentage of the wholesale acquisition cost increase for each drug on the list; rank the drugs on the list from those with the largest increase in wholesale acquisition cost to those with the smallest increase; indicate whether each drug was included on the list based on its cost increase over the past five years or during the previous calendar year, or both; and provide the Department’s total expenditure for each drug on the list during the most recent calendar year.

(B) The Department of Vermont Health Access shall create annually a list of 10 prescription drugs on which the State spends significant health care dollars and for which the cost to the Department of Vermont Health Access, net of rebates and other price concessions, has increased by 50 percent or more over the past five years or by 15 percent or more during the previous calendar year, creating a substantial public interest in understanding the development of the drugs’ pricing. The list shall include at least one generic and one brand-name drug and shall indicate each of the drugs on the list that the Department

considers to be specialty drugs. The Department shall rank the drugs on the list from those with the greatest increase in net cost to those with the smallest increase and indicate whether each drug was included on the list based on its cost increase over the past five years or during the previous calendar year, or both.

(C)(i) Each health insurer with more than 5,000 covered lives in this State for major medical health insurance shall create annually a list of 10 prescription drugs on which its health insurance plans spend significant amounts of their premium dollars and for which the cost to the plans, net of rebates and other price concessions, has increased by 50 percent or more over the past five years or by 15 percent or more during the previous calendar year, or both, creating a substantial public interest in understanding the development of the drugs' pricing. The list shall include at least one generic and one brand-name drug and shall indicate each of the drugs on the list that the health insurer considers to be specialty drugs.

(ii) A health insurer shall not be required to identify the exact percentage by which the net cost to its plans for any prescription drug increased over any specific period of time, but shall rank the drugs on its list in order from the largest to the smallest cost increase and shall provide the insurer's total expenditure, net of rebates and other price concessions, for each drug on the list during the most recent calendar year.

(2) The ~~Board~~ Department of Vermont Health Access and the health insurers shall provide to the Office of the Attorney General and the Green Mountain Care Board the list lists of prescription drugs developed pursuant to this subsection and the percentage of the wholesale acquisition cost increase for each drug and annually on or before June 1. The Office of the Attorney General and the Green Mountain Care Board shall make all of the information available to the public on the ~~Board's website~~ their respective websites.

(c)(1)(A) ~~For each prescription drug identified~~ Of the prescription drugs listed by the Department of Vermont Health Access and the health insurers pursuant to subsection ~~(b)~~ subdivisions (b)(1)(B) and (C) of this section, the Office of the Attorney General shall identify 15 drugs as follows:

(i) of the drugs appearing on more than one payer's list, the Office of the Attorney General shall identify the top 15 drugs on which the greatest amount of money was spent across all payers during the previous calendar year, to the extent information is available; and

(ii) if fewer than 15 drugs appear on more than one payer's list, the Office of the Attorney General shall rank the remaining drugs based on the amount of money spent by any one payer during the previous calendar year, in descending order, and select as many of the drugs at the top of the list as necessary to reach a total of 15 drugs.

(B) For the 15 drugs identified by the Office of the Attorney General pursuant to subdivision (A) of this subdivision (1), the Office of the Attorney General shall require the drug's manufacturer of each such drug to provide a justification all of the following:

(i) Justification for the increase in the wholesale acquisition net cost of the drug to the Department of Vermont Health Access, to one or more health insurers, or both, which shall be provided to the Office of the Attorney General in a format that the Office of the Attorney General determines to be understandable and appropriate and shall be provided in accordance with a timeline specified by the Office of the Attorney General. The manufacturer shall submit to the Office of the Attorney General all relevant information and supporting documentation necessary to justify the manufacturer's wholesale acquisition net cost increase over to the Department of Vermont Health Access, to one or more health insurers, or both during the identified period of time, which may include including:

(A)(I) all factors that have contributed to the wholesale acquisition each factor that specifically caused the net cost increase over to the Department of Vermont Health Access, to one or more health insurers, or both during the specified period of time;

(B)(II) the percentage of the total wholesale acquisition cost increase attributable to each factor; and

(C)(III) an explanation of the role of each factor in contributing to the wholesale acquisition cost increase.

(ii) A separate version of the information submitted pursuant to subdivision (i) of this subdivision (1)(B), which shall be made available to the public by the Office of the Attorney General and the Green Mountain Care Board pursuant to subsection (d) of this section. In the event that the manufacturer believes it necessary to redact certain information in the public version as proprietary or confidential, the manufacturer shall provide an explanation for each such redaction to the Office of the Attorney General. The information, format, and any redactions shall be subject to approval by the Office of the Attorney General.

(iii) Additional information in response to all requests for such information by the Office of the Attorney General.

(2) Nothing in this section shall be construed to restrict the legal ability of a prescription drug manufacturer to change prices to the extent permitted under federal law.

(d)(1) The Attorney General, in consultation with the Department of Vermont Health Access, shall provide a report to the General Assembly on or

before December 1 of each year based on the information received from manufacturers pursuant to this section. The Attorney General shall also post the report and the public version of each manufacturer's information submitted pursuant to subdivision (c)(1)(B)(ii) of this section on the Office of the Attorney General's website.

(2) The Green Mountain Care Board shall post on its website the report prepared by the Attorney General pursuant to subdivision (1) of this subsection and the public version of each manufacturer's information submitted pursuant to subdivision (c)(1)(B)(ii) of this section, and may inform the public of the availability of the report and the manufacturers' justification information.

(e) Information provided to the Office of the Attorney General pursuant to this section is exempt from public inspection and copying under the Public Records Act and shall not be released in a manner that allows for the identification of an individual drug or manufacturer or that is likely to compromise the financial, competitive, or proprietary nature of the information, except for the information prepared for release to the public pursuant to subdivision (c)(1)(B)(ii) of this section.

(f) The Attorney General may bring an action in the Civil Division of the Superior Court, Washington County for injunctive relief, costs, and attorney's fees, and to impose on a manufacturer that fails to provide any of the information required by subsection (c) of this section, in the format requested by the Office of the Attorney General and in accordance with the timeline specified by the Office of the Attorney General, a civil penalty of ~~no~~ not more than \$10,000.00 per violation. Each unlawful failure to provide information shall constitute a separate violation. In any action brought pursuant to this section, the Attorney General shall have the same authority to investigate and to obtain remedies as if the action were brought under the Consumer Protection Act, 9 V.S.A. chapter 63.

Sec. 10. 18 V.S.A. § 4637 is added to read:

§ 4637. NOTICE OF INTRODUCTION OF NEW HIGH-COST
PRESCRIPTION DRUGS

(a) As used in this section:

(1) "Manufacturer" shall have the same meaning as "pharmaceutical manufacturer" in section 4631a of this title.

(2) "Prescription drug" means a drug as defined in 21 U.S.C. § 321.

(b) A prescription drug manufacturer shall notify the Office of the Attorney General in writing if it is introducing a new prescription drug to market at a wholesale acquisition cost that exceeds the threshold set for a specialty drug under the Medicare Part D program. The manufacturer shall

provide the written notice within three calendar days following the release of the drug in the commercial market. A manufacturer may make the notification pending approval by the U.S. Food and Drug Administration (FDA) if commercial availability is expected within three calendar days following the approval.

(c) Not later than 30 calendar days following notification pursuant to subsection (b) of this section, the manufacturer shall provide all of the following information to the Office of the Attorney General in a format that the Office prescribes:

(1) a description of the marketing and pricing plans used in the launch of the new drug in the United States and internationally;

(2) the estimated volume of patients who may be prescribed the drug;

(3) whether the drug was granted breakthrough therapy designation or priority review by the FDA prior to final approval; and

(4) the date and price of acquisition if the drug was not developed by the manufacturer.

(d) The manufacturer may limit the information reported pursuant to subsection (c) of this section to that which is otherwise in the public domain or publicly available.

(e) The Office of the Attorney General shall publish on its website at least quarterly the information reported to it pursuant to this section. The information shall be published in a manner that identifies the information that is disclosed on a per-drug basis and shall not be aggregated in a manner that would not allow identification of the drug.

(f) The Attorney General may bring an action in the Civil Division of the Superior Court, Washington County for injunctive relief, costs, and attorney's fees and to impose on a manufacturer that fails to provide the information required by subsection (c) of this section a civil penalty of not more than \$1,000.00 per day for every day after the notification period described in subsection (b) of this section that the required information is not reported. In any action brought pursuant to this section, the Attorney General shall have the same authority to investigate and to obtain remedies as if the action were brought under the Consumer Protection Act, 9 V.S.A. chapter 63.

* * * Disclosures by Pharmacists * * *

Sec. 11. 18 V.S.A. § 9473(b) is amended to read:

(b) A pharmacy benefit manager or other entity paying pharmacy claims shall not:

(1) impose a higher co-payment for a prescription drug than the co-payment applicable to the type of drug purchased under the insured's health plan;

(2) impose a higher co-payment for a prescription drug than the maximum allowable cost for the drug; or

(3) require a pharmacy to pass through any portion of the insured's co-payment to the pharmacy benefit manager or other payer;

(4) prohibit or penalize a pharmacy or pharmacist for providing information to an insured regarding the insured's cost-sharing amount for a prescription drug; or

(5) prohibit or penalize a pharmacy or pharmacist for the pharmacist or other pharmacy employee disclosing to an insured the cash price for a prescription drug or selling a lower cost drug to the insured if one is available.

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

(a) Secs. 1–6 (interchangeable biological products) shall take effect on July 1, 2018.

(b) Sec. 11 (18 V.S.A. § 9473; disclosures by pharmacists) shall take effect on July 1, 2018 and shall apply to all contracts taking effect on or after that date.

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

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

An act relating to prescription drug price transparency and cost containment.

Proposal of amendment to House proposal of amendment to S. 92 to be offered by Senator Ayer

Senator Ayer moves that the Senate concur in the House proposal of amendment with further proposals of amendment as follows:

First: In Sec. 1, 18 V.S.A. § 4601, in subdivision (5)(A), before the semicolon, by inserting as may be reflected in the U.S. Food and Drug Administration's Lists of Licensed Biological Products with Reference Product Exclusivity and Biosimilarity or Interchangeability Evaluations (the Purple Book)

Second: In Sec. 8, 18 V.S.A. § 4636, in subdivision (a)(1), following "in this State", by inserting for major medical health insurance

Third: In Sec. 9, 18 V.S.A. § 4635, in subdivision (b)(1), by striking out

subdivision (C) in its entirety and inserting in lieu thereof a new subdivision (C) to read as follows:

(C)(i) Each health insurer with more than 5,000 covered lives in this State for major medical health insurance shall create annually a list of 10 prescription drugs on which its health insurance plans spend significant amounts of their premium dollars and for which the cost to the plans, net of rebates and other price concessions, has increased by 50 percent or more over the past five years or by 15 percent or more during the previous calendar year, or both, creating a substantial public interest in understanding the development of the drugs' pricing. The list shall include at least one generic and one brand-name drug and shall indicate each of the drugs on the list that the health insurer considers to be specialty drugs. The health insurer shall rank the drugs on the list from those with the greatest increase in net cost to those with the smallest increase and indicate whether each drug was included on the list based on its cost increase over the past five years or during the previous calendar year, or both.

(ii) Each health insurer creating a list pursuant to subdivision (i) of this subdivision (b)(1)(C) shall provide to the Office of the Attorney General the percentage by which the net cost to its plans increased over the applicable period or periods for each drug on the list, as well as the insurer's total expenditure, net of rebates and other price concessions, for each drug on the list during the most recent calendar year. Information provided to the Office of the Attorney General pursuant to this subdivision (b)(1)(C)(ii) is exempt from public inspection and copying under the Public Records Act and shall not be released.

Fourth: In Sec. 9, 18 V.S.A. § 4635, in subdivision (b)(2), in the first sentence, prior to “this subsection”, by inserting subdivisions (1)(A), (B), and (C)(i) of

Fifth: In Sec. 9, 18 V.S.A. § 4635, in subsection (e), prior to “this section”, by inserting subdivision (c)(1)(B) of

Sixth: By adding a reader assistance heading and a new section to be Sec. 11a to read as follows:

* * * Working Group on Prescription Drug Cost Savings
and Price Transparency * * *

Sec. 11a. WORKING GROUP ON PRESCRIPTION DRUG COST
SAVINGS AND PRICE TRANSPARENCY; REPORT

(a) The Secretary of Human Services or designee shall convene a working group comprising one representative each from the Department of Vermont Health Access, the Green Mountain Care Board, the Vermont Board of

Pharmacy, the Vermont Association of Chain Drug Stores, the Vermont Pharmacists Association, the Vermont Retail Druggists, Bi-State Primary Care Association, and the Vermont Association of Hospitals and Health Systems to investigate and analyze prescription drug pricing throughout the prescription drug supply chain in order to identify opportunities for savings for Vermont consumers and other payers and for increasing prescription drug price transparency at all levels of the supply chain, including manufacturers, wholesalers, pharmacy benefit managers, health insurers, pharmacies, and consumers.

(b) On or before November 15, 2018, the working group shall provide its findings and recommendations to the House Committee on Health Care and the Senate Committee on Health and Welfare.

NEW BUSINESS

Third Reading

H. 924.

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

Second Reading

Favorable

H. 894.

An act relating to pensions, retirement, and setting the contribution rates for municipal employees.

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

(Committee vote: 5-0-0)

(No House amendments)

Reported favorably by Senator Brock for the Committee on Finance.

(Committee vote: 7-0-0)

Reported favorably by Senator McCormack for the Committee on Appropriations.

(Committee vote: 7-0-0)

Favorable with Proposal of Amendment

H. 780.

An act relating to portable rides at agricultural fairs, field days, and other similar events.

Reported favorably with recommendation of proposal of amendment by Senator Pollina for the Committee on Agriculture.

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

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Fairs are essential to the character, community life, and economy of Vermont, and amusement rides help to increase fair attendance.

(2) Attendance at Vermont fairs exceeds 375,000 people a year, and the total budget for all Vermont fairs exceeds \$7 million a year. Vermont fairs generate over \$85,000.00 of sales tax revenue per year.

(3) An inspection regime for amusement rides based upon standards that are nationally recognized and used in other states will increase the safety of fair rides and help ensure the continued popularity of Vermont fairs.

Sec. 2. 31 V.S.A. § 721 is amended to read:

§ 721. DEFINITIONS

As used in this chapter:

(1) “Amusement ride” means a mechanical device that carries or conveys passengers along, around, or over a fixed or restricted route or course for the purpose of giving the passengers amusement, pleasure, thrills, or excitement. ~~In addition, for~~ For the purposes of this chapter, amusement ride shall ~~also not~~ include bungee jumping, zip lines, waterslides or obstacle, challenge, or adventure courses.

(2) “Operator” or “owner” means a person who owns or controls or has the duty to control the operation of amusement rides.

~~(3) “Certificate” or “certificate of operation” means a document issued by the Secretary of State authorizing the operation of one or more amusement rides, indicating thereon the following information for each amusement ride: the proper ride model, serial number, passenger capacity of the ride, the recommended maximum speed of the ride, and recommended direction of travel of the ride. The Secretary of State may amend a certificate to add other~~

~~amusement rides to be operated in the State during a calendar year.~~

Sec. 3. 31 V.S.A. § 722 is amended to read:

§ 722. CERTIFICATE OF OPERATION

(a) An amusement ride may not be operated in this State unless the Secretary of State has issued a certificate of operation to the owner or operator within the preceding 12 months.

(b) An application for a certificate of operation shall be submitted to the Secretary of State not fewer than 30 business days before an amusement ride is operated in this State.

(c) The Secretary of State shall issue a “certificate of operation” ~~no later~~ not fewer than 15 business days before the amusement ride is first operated in the State, if the owner or operator submits all the following:

(1) Certificate of insurance in the amount of not less than \$1,000,000.00 that insures both the owner and the operator against liability for injury to persons and property arising out of the use or operation of the amusement ride.

(2) Payment of a fee in the amount of \$100.00.

(3) Proof or a statement of compliance with the requirements of 21 V.S.A. chapter 9.

~~(e)~~(d) The certificate of operation shall be valid for one year from the date of issue and shall be in a manner and format to be prescribed by the Secretary of State. A certificate of operation shall identify the ride’s:

(1) name and model;

(2) serial number;

(3) passenger capacity; and

(4) recommended maximum speed.

~~(d)~~(e) A copy of the certificate of operation shall be posted on or near each amusement ride covered by the certificate and shall be in full public view at all times during the operation of the ride kept at the office of the amusement ride operator.

(f) The Secretary of State shall:

(1) determine the manner and format of the certificate of operation, any forms to be used to apply for the certificate of operation, the adhesive sticker that shall be affixed to the ride pursuant to subdivision 723a(b)(2) of this title, and the certification to be filed pursuant to subdivision 723a(b)(3) of this title;

(2) make any forms and certifications available on the Secretary of State's website and shall provide adhesive stickers to inspectors;

(3) allow an owner or operator to apply for certificates of operation for multiple rides at one time, using one form;

(4) charge one fee for the filing of each application form, regardless of the number of rides listed on the application.

Sec. 4. 31 V.S.A. § 723a is added to read:

§ 723a. SAFETY INSPECTIONS

(a) A amusement ride shall not be operated in this State unless:

(1) The ride has been inspected in the State within the preceding 12 months by a person who is:

(A) certified:

(i) by the National Association of Amusement Ride Safety Officials as a Level II Inspector; or

(ii) by the Amusement Industry Manufacturers and Suppliers International at a level that is equivalent to the certification pursuant to subdivision (i) of this subdivision (1)(A); and

(B) not the owner or operator of the ride or an employee or agent of the owner or operator.

(2) The inspection complied with the American Society for Testing and Materials (ASTM) current standard F770 concerning the practices for ownership, operation, maintenance, and inspection of amusement rides and devices.

(3) A valid certificate of operation has been issued for the ride pursuant to section 722 of this title.

(b) After a ride has been inspected pursuant to subsection (a) of this section:

(1) The owner or operator shall submit the certificate or other record of inspection to the Secretary of State within 15 business days following the date of inspection.

(2) An adhesive sticker, in a format to be determined by the Secretary of State, shall be affixed to the ride that indicates:

(A) the date and location the inspection was completed; and

(B) the name of the inspector.

(3) The owner or operator shall submit a certification, in a format to be determined by the Secretary of State, to the organization hosting a fair, field day, or other event or location, at which the owner or operator intends to operate a ride, stating that the ride has been inspected pursuant to subsection (a) of this section and stickers have been affixed pursuant to this subdivision (b) prior to the ride being used to carry or convey passengers.

(c) A ride shall be inspected by the owner or operator:

(1) after the ride has been set up but before being used to carry or convey passengers; and

(2) every day thereafter that the ride is used to carry or convey passengers.

(d) The owner or operator of an amusement ride shall:

(1) keep records of all safety inspections;

(2) make those records available to the Secretary of State or the Office of the Attorney General promptly upon request;

(3) keep a paper or electronic copy of all required forms or certifications, and of all safety inspections conducted by the owner or operator during the preceding 12 months for each ride:

(A) on or near that ride; or

(B) at the office of the amusement ride operator;

(4) operate, maintain, and inspect all rides in compliance with ASTM current standards for ownership, operation, maintenance, and inspection of amusement rides and devices.

Sec. 5. 31 V.S.A. § 723 is amended to read:

§ 723. OPERATIONS OPERATOR AND PATRON RESPONSIBILITIES

(a) An operator of an amusement ride shall:

(1) be at least 18 years of age;

(2) operate only one amusement ride at a time; ~~and~~

(3) be in attendance at all times that the ride is operating; and

(4) operate the ride in accordance with the ride manufacturer's requirements.

(b) An operator of an amusement ride may deny any person entrance to an amusement ride if the operator believes that entrance by that person may jeopardize the safety of the person or other persons.

(c) A patron shall:

(1) understand that there are risks in riding an amusement ride;

(2) exercise good judgment and act in a responsible and safe manner while riding an amusement ride; and

(3) obey all written and verbal warnings and directions from ride operators or owners.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

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

An act relating to rides at agricultural fairs, field days, and other similar events.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 20, 2018, pages 733-741)

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

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

In Sec. 4, 31 V.S.A. § 723a, in subsection (c), after the word “inspected”, by inserting the words for safety

(Committee vote: 6-0-1)

House Proposals of Amendment

S. 203

An act relating to systemic improvements of the mental health system.

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

* * * Legislative Intent and Oversight * * *

Sec. 1. LEGISLATIVE INTENT

(a) The General Assembly recognizes the need for additional inpatient psychiatric beds in Vermont. To achieve an increase in the number of inpatient psychiatric beds in a manner that ensures clinical best practice, the General Assembly supports identifying the appropriate number of beds needed and developing corresponding capacity within existing hospital and health care systems. The General Assembly further supports the intent of the University

of Vermont Health Network to initiate a proposal expanding inpatient psychiatric bed capacity at the Central Vermont Medical Center campus.

(b) It is the intent of the General Assembly that the Agency of Human Services shall:

(1) replace the temporary Middlesex Secure Residential Recovery Facility with a permanent facility that has a 16-bed capacity;

(2) assist the University of Vermont Health Network in identifying the appropriate number and type of additional inpatient psychiatric beds needed in the State; and

(3) plan the increased number of inpatient psychiatric beds in a manner that maximizes the State's ability to leverage Medicaid dollars.

Sec. 2. OVERSIGHT OF CHANGES TO PSYCHIATRIC INPATIENT CAPACITY

The Secretary of Human Services shall provide regular updates on the status of the proposed renovations at the Brattleboro Retreat and on the University of Vermont Health Network proposal designed to augment the capacity of Vermont's inpatient psychiatric care capacity to the Health Reform Oversight Committee.

* * * Order of Non-Hospitalization Study Committee * * *

Sec. 3. ORDER OF NON-HOSPITALIZATION STUDY COMMITTEE

(a) Creation. There is created the Order of Non-Hospitalization Study Committee to examine the strengths and weaknesses of Vermont's orders of non-hospitalizations for the purpose of improving patient care.

(b) Membership. The Committee shall be composed of the following 12 members:

(1) the Commissioner of Mental Health or designee;

(2) the Commissioner of Public Safety or designee;

(3) the Chief Superior Judge or designee;

(4) a member appointed by the Vermont Care Partners;

(5) a member appointed by the Vermont Association of Hospitals and Health Systems;

(6) a member appointed by Vermont Legal Aid's Mental Health Project;

(7) a member appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;

(8) the Vermont Defender General or designee;

(9) the Executive Director of Vermont Psychiatric Survivors or designee;

(10) the Mental Health Care Ombudsman designated pursuant to 18 V.S.A. § 7259;

(11) an individual who was previously under an order of non-hospitalization, appointed by Vermont Psychiatric Survivors; and

(12) the family member of an individual who is currently or was previously under an order of non-hospitalization, appointed by the Vermont chapter of the National Alliance on Mental Illness.

(c) Powers and duties. The Committee shall examine the strengths and weaknesses of Vermont's orders of non-hospitalization for the purpose of improving patient care and may propose a pilot project that seeks to redress any weaknesses and build upon any existing strengths. The Committee shall:

(1) review and understand existing laws pertaining to orders of non-hospitalization, including 1998 Acts and Resolves No. 114;

(2) review existing studies and reports on whether or not outpatient commitment and involuntary treatment orders improve patient outcomes;

(3) review existing data pertaining to orders of non-hospitalization, including data pertaining to individuals entering the mental health system through both civil and forensic procedures;

(4) if appropriate, propose a pilot project for the purpose of improving the efficacy of orders of non-hospitalization;

(5) if appropriate, recommend any changes necessary to approve the efficacy of orders of non-hospitalization; and

(6) identify statutory changes necessary to implement recommended changes to orders of non-hospitalization, if any.

(d) Assistance. The Committee shall have the administrative, technical, and legal assistance of the Department of Mental Health.

(e) Report. On or before November 1, 2018, the Committee shall submit a written report to the House Committee on Health Care and the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Commissioner of Mental Health or designee shall call the first meeting of the Committee to occur on or before August 1, 2018.

(2) The Commissioner of Mental Health or designee shall be the Chair.

(3) A majority of the membership shall constitute a quorum.

(4) The Committee shall cease to exist on December 1, 2018.

(g) 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 Department of Mental Health.

* * * Waiver of Certificate of Need Requirement for Renovations at the
Brattleboro Retreat * * *

Sec. 4. WAIVER OF CERTIFICATE OF NEED REQUIREMENT FOR RENOVATIONS AT THE BRATTLEBORO RETREAT

Notwithstanding the provisions of 18 V.S.A. chapter 221, subchapter 5, the implementation of renovations at the Brattleboro Retreat as authorized in the fiscal year 2019 capital budget adjustment bill shall not be considered a “new health care project” for which a certificate of need is required.

* * * Use of Emergency Involuntary Procedures in the Secure Residential
Recovery Facility * * *

Sec. 5. EMERGENCY INVOLUNTARY PROCEDURES IN SECURE RESIDENTIAL RECOVERY FACILITIES

In the event that the Department of Disabilities, Aging, and Independent Living amends its rules pertaining to secure residential recovery facilities to allow the use of emergency involuntary procedures in them, the rules adopted shall be identical to those rules adopted by the Department of Mental Health that govern the use of emergency involuntary procedures in psychiatric inpatient units.

* * * Reports * * *

Sec. 6. REPORT; TRANSPORTING PATIENTS

On or before January 15, 2019, the Secretary of Human Services shall submit a written report to the House Committees on Appropriations and on Health Care and to the Senate Committees on Appropriations and on Health and Welfare regarding the implementation of 2017 Acts and Resolves No. 85, Sec. E.314 (transporting patients). Specifically, the report shall:

(1) describe specifications introduced into the Agency of Human Services’ fiscal year 2019 contracts as a result of 2017 Acts and Resolves No. 85, Sec. E.314;

(2) summarize the Agency's oversight and enforcement of 2017 Acts and Resolves No. 85, Sec. E.314;

(3) provide data from each sheriff's department in the State on the use of restraints during patient transports; and

(4) if the data indicates noncompliance, identify the plans of correction and how the services of noncompliant sheriffs' departments are being replaced if the plan of correction is not achieved.

Sec. 7. DATA COLLECTION AND REPORT; PATIENTS SEEKING MENTAL HEALTH CARE IN HOSPITAL SETTINGS

(a) Pursuant to the authority granted to the Commissioner of Mental Health under 18 V.S.A. § 7401, the Commissioner shall collect the following information from hospitals in the State that have either an inpatient psychiatric unit or emergency department receiving patients with psychiatric health needs:

(1) the number of individuals seeking psychiatric care voluntarily and the number of individuals in the custody or temporary custody of the Commissioner who are admitted to inpatient psychiatric units and the corresponding lengths of stay on the unit;

(2) the lengths of stay in emergency departments for individuals seeking psychiatric care voluntarily and for individuals in the custody or temporary custody of the Commissioner; and

(3) data regarding emergency involuntary procedures performed in an emergency department on individuals seeking psychiatric care.

(b) On or before January 15 of each year between 2019 and 2021, the Commissioner of Mental Health shall submit a written report to the House Committee on Health Care and to the Senate Committee on Health and Welfare containing the data collected pursuant to subsection (a) of this section during the previous calendar year.

Sec. 8. RATES OF PAYMENTS TO DESIGNATED AND SPECIALIZED SERVICE AGENCIES

The community-based services provided by designated and specialized service agencies are a critical component of Vermont's health care system. These services are essential for the prevention of unnecessary hospitalization and emergency department use. The ability to recruit and retain qualified employees is necessary for delivery of mental health services. The Agency of Human Services shall:

(1) Apply the model used in developing advanced rates at the Brattleboro Retreat for supporting staff recruitment and retention and long-term sustainability to develop revised rates for the designated and specialized

service agencies, which shall be provided as part of the fiscal year 2020 budget; and

(2) On or before January 15, 2019, develop and submit a proposal, in conjunction with the Green Mountain Care Board and the designated and specialized service agencies, for providing the designated and specialized service agency budgets to the Board for informational purposes for its work on health care system costs to the House Committees on Appropriations, on Health Care, and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare. The proposal shall be consistent with the long-term goal that work pertaining to Medicaid pathways include a plan to create a review process of the designated and specialized service agencies' budgets by the Board as part of an integrated health care system.

Sec. 9. 2017 Acts and Resolves No. 82, Sec. 3(c) is amended to read:

(c) On or before January 15, 2019, the Secretary shall submit a comprehensive evaluation of the overarching structure for the delivery of mental health services within a sustainable, holistic health care system in Vermont to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services, including. The Secretary shall ensure that the evaluation process provides for input from persons who identify as psychiatric survivors, consumers, or peers; family members of such persons; providers of mental health services; and providers of services within the broader health care system. The evaluation process shall include direct stakeholder involvement in the development of a written statement that articulates a common, long-term, statewide vision of how integrated, recovery- and resiliency-oriented services shall emerge as part of a comprehensive and holistic health care system. The evaluation shall include:

* * *

(5) how mental health care is being fully integrated into health care payment reform; and

(6) any recommendations for structural changes to the mental health system that would assist in achieving the vision of an integrated, holistic health care system;

(7) how Vermont's mental health system currently addresses, or should be revised better to address, the goals articulated in 18 V.S.A. § 7629 of achieving "high-quality, patient-centered health care, which the Institute of Medicine defines as 'providing care that is respectful of and responsive to individual patient preferences, needs, and values and ensuring that patient values guide all clinical decisions'" and of achieving a mental health system that does not require coercion;

(8) recommendations for encouraging regulators and policymakers to account for mental health care spending growth as part of overall cost growth within the health care system rather than singled out and capped by the State’s budget; and

(9) recommendations for ensuring parity between providers with similar job descriptions regardless of whether they are public employees or are employed by a State-financed agency.

Sec. 10. REPORT; INSTITUTIONS FOR MENTAL DISEASE

The Secretary of Human Services, in partnership with entities in Vermont designated by the Centers for Medicare and Medicaid Services as “institutions for mental disease” (IMDs), shall submit the following reports to the House Committees on Appropriations, on Corrections and Institutions, on Health Care, and on Human Services and to the Senate Committees on Appropriations, on Health and Welfare, and on Institutions regarding the Agency’s progress in evaluating the impact of federal IMD spending on persons with serious mental illness or substance use disorders:

(1) status updates that shall provide possible solutions considered as part of the State’s response to the Centers for Medicare and Medicaid Services’ requirement to begin reducing federal Medicaid spending due on or before July 15, September 15, and November 15 of 2019; and

(2) on or before January 15 of each year from 2019 to 2025, a written report evaluating:

(A) the impact to the State caused by the requirement to reduce and eventually terminate federal Medicaid IMD spending;

(B) the number of existing psychiatric and substance use disorder treatment beds at risk and the geographical location of those beds;

(C) the State’s plan to address the needs of Vermont residents if psychiatric and substance use disorder treatment beds are at risk;

(D) the potential of attaining a waiver from the Centers for Medicare and Medicaid Services for existing psychiatric and substance use disorder services; and

(E) alternative solutions, including alternative sources of revenue, such as general funds, or opportunities to repurpose buildings designated as IMDs.

* * * Mental Health Parity * * *

Sec. 11. 8 V.S.A. § 4062(h) is amended to read:

(h)(1) The authority of the Board under this section shall apply only to the rate review process for policies for major medical insurance coverage and shall not apply to the policy forms for major medical insurance coverage or to the rate and policy form review process for policies for specific disease, accident, injury, hospital indemnity, dental care, vision care, disability income, long-term care, student health insurance coverage, Medicare supplemental coverage, or other limited benefit coverage, or to benefit plans that are paid directly to an individual insured or to his or her assigns and for which the amount of the benefit is not based on potential medical costs or actual costs incurred. Premium rates and rules for the classification of risk for Medicare supplemental insurance policies shall be governed by sections 4062b and 4080e of this title.

(2) The policy forms for major medical insurance coverage, as well as the policy forms, premium rates, and rules for the classification of risk for the other lines of insurance described in subdivision (1) of this subsection shall be reviewed and approved or disapproved by the Commissioner. In making his or her determination, the Commissioner shall consider whether a policy form, premium rate, or rule is affordable and is not unjust, unfair, inequitable, misleading, or contrary to the laws of this State; and, for a policy form for major medical insurance coverage, whether it ensures equal access to appropriate mental health care in a manner equivalent to other aspects of health care as part of an integrated, holistic system of care. The Commissioner shall make his or her determination within 30 days after the date the insurer filed the policy form, premium rate, or rule with the Department. At the expiration of the 30-day period, the form, premium rate, or rule shall be deemed approved unless prior to then it has been affirmatively approved or disapproved by the Commissioner or found to be incomplete. The Commissioner shall notify an insurer in writing if the insurer files any form, premium rate, or rule containing a provision that does not meet the standards expressed in this subsection. In such notice, the Commissioner shall state that a hearing will be granted within 20 days upon the insurer's written request.

Sec. 12. 18 V.S.A. § 7201 is amended to read:

§ 7201. MENTAL HEALTH

(a) The Department of Mental Health, as the successor to the Division of Mental Health Services of the Department of Health, shall centralize and more efficiently establish the general policy and execute the programs and services of the State concerning mental health, and integrate and coordinate those programs and services with the programs and services of other departments of the State, its political subdivisions, and private agencies, so as to provide a flexible comprehensive service to all citizens of the State in mental health and related problems.

(b) The Department shall ensure equal access to appropriate mental health care in a manner equivalent to other aspects of health care as part of an integrated, holistic system of care.

Sec. 13. 18 V.S.A. § 7251 is amended to read:

§ 7251. PRINCIPLES FOR MENTAL HEALTH CARE REFORM

The General Assembly adopts the following principles as a framework for reforming the mental health care system in Vermont:

* * *

(4) The mental health system shall be integrated into the overall health care system and ensure equal access to appropriate mental health care in a manner equivalent to other aspects of health care as part of an integrated, holistic system of care.

* * *

Sec. 14. 18 V.S.A. § 9371 is amended to read:

§ 9371. PRINCIPLES FOR HEALTH CARE REFORM

The General Assembly adopts the following principles as a framework for reforming health care in Vermont:

* * *

(4) Primary care must be preserved and enhanced so that Vermonters have care available to them, preferably within their own communities. The health care system must ensure that Vermonters have access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability and that is equivalent to other components of health care as part of an integrated, holistic system of care. Other aspects of Vermont's health care infrastructure, including the educational and research missions of the State's academic medical center and other postsecondary educational institutions, the nonprofit missions of the community hospitals, and the critical access designation of rural hospitals, must be supported in such a way that all Vermonters, including those in rural areas, have access to necessary health services and that these health services are sustainable.

* * *

Sec. 15. 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:

* * *

(2) The ACO has established appropriate mechanisms and care models to provide, manage, and coordinate high-quality health care services for its patients, including incorporating the Blueprint for Health, coordinating services for complex high-need patients, and providing access to health care providers who are not participants in the ACO. The ACO ensures equal access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability in a manner that is equivalent to other aspects of health care as part of an integrated, holistic system of care.

* * *

Sec. 16. 18 V.S.A. § 9405(a) is amended to read:

(a) ~~No later than January 1, 2005, the~~ The Secretary of Human Services or designee, in consultation with the Chair of the Green Mountain Care Board and health care professionals and after receipt of public comment, shall adopt a State Health Improvement Plan that sets forth the health goals and values for the State. The Secretary may amend the Plan as the Secretary deems necessary and appropriate. The Plan shall include health promotion, health protection, nutrition, and disease prevention priorities for the State; identify available human resources as well as human resources needed for achieving the State's health goals and the planning required to meet those needs; identify gaps in ensuring equal access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care; and identify geographic parts of the State needing investments of additional resources in order to improve the health of the population. ~~The Plan shall contain sufficient detail to guide development of the State Health Resource Allocation Plan.~~ Copies of the Plan shall be submitted to members of the Senate and ~~House Committees~~ Committee on Health and Welfare ~~no later than January 15, 2005~~ and the House Committee on Health Care.

Sec. 17. 18 V.S.A. § 9405a(a) is amended to read:

(a) Each hospital shall have a protocol for meaningful public participation in its strategic planning process for identifying and addressing health care

needs that the hospital provides or could provide in its service area. Needs identified through the process shall be integrated with the hospital's long-term planning. Each hospital shall post on its website a description of its identified needs, strategic initiatives developed to address the identified needs, annual progress on implementation of the proposed initiatives, ~~and~~ opportunities for public participation, and the ways in which the hospital ensures access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care. Hospitals may meet the community health needs assessment and implementation plan requirement through compliance with the relevant Internal Revenue Service community health needs assessment requirements for nonprofit hospitals.

Sec. 18. 18 V.S.A. § 9437 is amended to read:

§ 9437. CRITERIA

A certificate of need shall be granted if the applicant demonstrates and the Board finds that:

* * *

(7) the applicant has adequately considered the availability of affordable, accessible patient transportation services to the facility; ~~and~~

(8) if the application is for the purchase or lease of new Health Care Information Technology, it conforms with the health information technology plan established under section 9351 of this title; and

(9) The project will support equal access to appropriate mental health care that meets the Institute of Medicine's triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care, as appropriate.

Sec. 19. 18 V.S.A. § 9456(c) is amended to read:

(c) Individual hospital budgets established under this section shall:

(1) be consistent with the Health Resource Allocation Plan;

(2) take into consideration national, regional, or ~~instate~~ in-state peer group norms, according to indicators, ratios, and statistics established by the Board;

(3) promote efficient and economic operation of the hospital;

(4) reflect budget performances for prior years; ~~and~~

(5) include a finding that the analysis provided in subdivision (b)(9) of this section is a reasonable methodology for reflecting a reduction in net revenues for non-Medicaid payers; and

(6) demonstrate that they support equal access to appropriate mental health care that meets the Institute of Medicine’s triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care.

Sec. 20. 18 V.S.A. § 9491 is amended to read:

§ 9491. HEALTH CARE WORKFORCE; STRATEGIC PLAN

* * *

(b) The Director or designee shall collaborate with the area health education centers, the Workforce Development Council established in 10 V.S.A. § 541, the Prekindergarten-16 Council established in 16 V.S.A. § 2905, the Department of Labor, the Department of Health, the Department of Vermont Health Access, and other interested parties, to develop and maintain the plan. The Director of Health Care Reform shall ensure that the strategic plan includes recommendations on how to develop Vermont’s health care workforce, including:

* * *

(2) the resources needed to ensure that:

(A) the health care workforce and the delivery system are able to provide sufficient access to services given demographic factors in the population and in the workforce, as well as other factors, and;

(B) the health care workforce and the delivery system are able to participate fully in health care reform initiatives, including ~~how to ensure that all Vermont residents have~~ establishing a medical home for all Vermont residents through the Blueprint for Health pursuant to chapter 13 of this title, ~~and how to transition~~ and transitioning to electronic medical records; and

(C) all Vermont residents have access to appropriate mental health care that meets the Institute of Medicine’s triple aims of quality, access, and affordability equivalent to other components of health care as part of an integrated, holistic system of care;

* * *

* * * Effective Date * * *

Sec. 21. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

S. 272

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

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

* * * 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~~ 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 sooner~~ 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)(1) 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 shall be transmitted to the Department of Motor Vehicles as follows:

(A) If the tax liability is more than \$25,000.00, it shall be sent by means of an electronic funds transfer payment.

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

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

~~(b)(1)~~ 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 as follows:

~~(A) If the tax liability is more than \$25,000.00, it shall be sent by~~

means of an electronic funds transfer payment.

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

~~(2) If payment 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 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.~~

* * * 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. § 4171 is amended to read:

§ 4171. DEFINITIONS

As used in this chapter:

* * *

(6) "Motor vehicle" means a passenger motor vehicle ~~which~~ that is purchased, leased, or registered in the State of Vermont, and shall not include tractors, motorized highway building equipment, road-making appliances, snowmobiles, motorcycles, motor-driven cycles, or the living portion of

recreation vehicles, or trucks with a gross vehicle weight rating over 12,000 pounds.

(7) “Manufacturer” means any person, resident or nonresident, ~~who~~ that manufactures or assembles new motor vehicles or imports for distribution through distributors of motor vehicles or any partnership, firm, association, joint venture, corporation, or trust, resident or nonresident, ~~which~~ that is controlled by a manufacturer. In the case of the portion of a recreation vehicle subject to this chapter, and except as otherwise provided in subdivision 4172(e)(2) of this title, “manufacturer” means the final stage assembler of the completed recreation vehicle. Additionally, the term “manufacturer” shall include:

(A) “distributor,” meaning any person, resident or nonresident, ~~who~~ that in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers or new motor vehicle lessors or maintains factory representatives or ~~who~~ that controls any person, firm, association, corporation, or trust, resident or nonresident, ~~who~~ that in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers or new motor vehicle lessors; and

(B) “factory branch,” meaning any branch office maintained by a manufacturer for the purpose of selling, leasing, or offering for sale or lease, vehicles to a distributor or new motor vehicle dealer or for directing or supervising, in whole or in part, factory distributor representatives.

* * *

(9) A “new motor vehicle” means a ~~passenger~~ motor vehicle ~~which~~ that is still under the manufacturer’s express warranty or, in the case of the portion of a recreation vehicle that is subject to this chapter, that is still under an express warranty for the relevant component.

* * *

Sec. 15. 9 V.S.A. § 4172 is amended to read:

§ 4172. ENFORCEMENT OF WARRANTIES

* * *

(e)(1) If, after a reasonable number of attempts, the manufacturer, its agent, or authorized dealer or its delegate is unable to conform the motor vehicle to any express warranty by repairing or correcting any defect or condition covered by the warranty ~~which~~ that substantially impairs the use, market value, or safety of the motor vehicle to the consumer, the manufacturer shall, at the option of the consumer within 30 days of the effective date of the Board’s order, either:

(A) ~~replace~~ Replace the motor vehicle with a new motor vehicle from the same manufacturer, if available, of comparable worth to the same make and model with all options and accessories with appropriate adjustments being allowed for any model year differences ~~or shall~~.

(B) ~~accept~~ Accept return of the vehicle from the consumer and refund to the consumer the full purchase price or to the lessee in the case of leased vehicles, as provided in subsection (i) of this section. In those instances in which a refund is tendered, the manufacturer shall refund to the consumer the full purchase price as indicated in the purchase contract and all credits and allowances for any trade-in or downpayment, finance charges, credit charges, registration fees, and any similar charges and incidental and consequential damages or, in the case of leased vehicles, as provided in subsection (i) of this section. Refunds shall be made to the consumer and lienholder, if any, as their interests may appear or to the motor vehicle lessor and lessee as provided in subsection (i) of this section. A reasonable allowance for use shall be that amount directly attributable to use by the consumer prior to his or her first repair attempt and shall be calculated by multiplying the full purchase price of the vehicle by a fraction having as its denominator 100,000 and having as its numerator the number of miles that the vehicle traveled prior to the first attempt at repairing the vehicle. If the manufacturer refunds the purchase price or a portion of the price to the consumer, any Vermont motor vehicle purchase and use tax paid shall be refunded by the State to the consumer in the proportionate amount. To receive a refund, the consumer must file a claim with the Commissioner of Motor Vehicles within 90 days of the effective date of the order.

(2) In the case of a recreation vehicle, the warrantor of the chassis shall be responsible for any refund under subdivision (1)(B) of this subsection or under subsection (i) of this section, even if the consumer's or lessee's right to the refund results from a nonconformity caused by the final stage assembler of the completed recreation vehicle or by another warranted component subject to this chapter.

* * *

Sec. 16. 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. 17. 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. 18. 23 V.S.A. § 617 is amended to read:

§ 617. LEARNER'S PERMIT

* * *

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

(2) After the applicant has successfully passed all parts of the applicable

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

(3) A motorcycle learner's permit may be renewed only twice upon payment of a \$20.00 fee. If, during the original permit period and two renewals, the permittee has not successfully passed the applicable skill test or ~~the~~ motorcycle rider training course, he or she may not obtain another motorcycle learner's permit for a period of 12 months from the expiration of the permit unless:

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

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

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

* * *

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

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

* * * Dealer Records of Sales * * *

Sec. 19. 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.]~~

* * *

* * * Seatbelt Law for Adults; Primary Enforcement * * *

Sec. 20. 23 V.S.A. § 1259 is amended to read:

§ 1259. SAFETY BELTS; PERSONS ~~AGE 18~~ YEARS OF AGE AND OVER

* * *

~~(e) This section may be enforced only if a law enforcement officer has detained the operator of a motor vehicle for another suspected traffic violation. An operator shall not be subject to the penalty established in this section unless the operator is required to pay a penalty for the primary violation. [Repealed.]~~

* * *

Sec. 21. PRIMARY ENFORCEMENT OF SEATBELT LAW; PUBLIC EDUCATION CAMPAIGN

(a) To inform highway users of the requirements of Sec. 20 of this act (primary enforcement of the seatbelt law for adults) and the October 1, 2018 effective date of Sec. 20, the Secretary of Transportation shall conduct a public education campaign to commence on or before July 1, 2018.

(b) At a minimum, the Secretary shall:

(1) notify media outlets throughout the State of the change in the law to primary enforcement of the adult seatbelt law and the October 1, 2018 effective date of the change in the law;

(2) update the website of the Agency of Transportation and the website of the Department of Motor Vehicles to provide notice of the change in the law and its effective date; and

(3) consistent with the Manual on Uniform Traffic Control Devices and any other applicable federal law, post messages on changeable message signs of the Agency that inform highway users of the change in the law and its effective date.

* * * Motor Vehicle Inspections * * *

Sec. 22. 23 V.S.A. § 1222 is amended to read:

§ 1222. INSPECTION OF REGISTERED VEHICLES

(a) Except for school buses, which shall be inspected as prescribed in section 1282 of this title, and motor buses as defined in subdivision 4(17) of this title, which shall be inspected twice during the calendar year at six-month intervals, all motor vehicles registered in this State shall be inspected once each year. Any motor vehicle, trailer, or semi-trailer not currently inspected in this State shall be inspected within 15 days ~~from~~ following the date of its registration in the State of Vermont.

(b)(1) The inspections shall be made at garages or qualified service stations, designated by the Commissioner as inspection stations, for the purpose of determining whether those motor vehicles are properly equipped and maintained in good mechanical condition; provided, however, the scope of the safety inspection of a motor vehicle other than a school bus or a commercial motor vehicle shall be limited to parts or systems that are relevant to the vehicle's safe operation, and such vehicles shall not fail the safety portion of the inspection unless the condition of the part or system poses or may pose a danger to the operator or to other highway users.

(2) The charges for such inspections made by garages or qualified service stations designated to conduct periodic inspections shall be subject to the approval of the Commissioner. If a fee is charged for inspection, it shall be based upon the hourly rate charged by each official inspection station or it may be a flat rate fee and, in either instance, the fee shall be prominently posted and displayed beside the official inspection station certificate. In addition, the official inspection station may disclose the State inspection certificate charge on the repair order as a separate item and collect the charge from the consumer.

* * *

Sec. 23. RULEMAKING; TRANSITION

(a)(1) As soon as practicable after the effective date of this section, and not later than May 1, 2018, the Commissioner of Motor Vehicles (Commissioner) shall file with the Secretary of State a proposed amended rule governing motor vehicle inspections (C.V.R. 14-050-022) that:

(A) is consistent with the permissible scope of safety inspections under the amendments to 23 V.S.A. § 1222 in Sec. 22 of this act; and

(B) clarifies ambiguous language in the rule.

(2) The amended rule described in subdivision (1) of this subsection shall be adopted so as to take effect no later than July 1, 2019.

(3) As soon as practicable after the effective date of this section, the Commissioner shall update the content of inspections conducted through the Automated Vehicle Inspection Program to exclude any requirement of C.V.R. 14-050-022 that is inconsistent with the permissible scope of safety inspections under the amendments to 23 V.S.A. § 1222 in Sec. 22 of this act, with the result that no vehicle will fail inspection as a result of any such inconsistent requirement.

(b) In the proposed rule amendments, the Commissioner may direct inspection stations to identify advisory, recommended repairs that are not required for the vehicle to pass inspection.

(c) Except as provided in subdivision (a)(2) and subsection (d) of this section, nothing in this section or Sec. 22 of this act is intended to affect the emissions-related requirements of the rule governing motor vehicle inspections.

(d) Notwithstanding 10 V.S.A. § 567 and C.V.R. 14-050-022, the Commissioner may establish criteria to allow vehicles that would otherwise fail inspection as a result of the emissions component of the inspection to pass inspection and receive an inspection sticker, provided that the vehicle satisfies all inspection requirements that are relevant to the vehicle's safe operation. The authority conferred in this subsection shall expire on January 15, 2019.

(e) As soon as practicable after the effective date of this section, the Commissioner of Motor Vehicles, in consultation with the Commissioner of Environmental Conservation, shall develop a program of waivers related to the emissions component of the State's inspection program that is consistent with the requirements of the Clean Air Act and its implementing regulations.

(f) On November 30, 2018, the Commissioners of Motor Vehicles and of Environmental Conservation shall send a written update to the Joint Transportation Oversight Committee that includes:

(1) a copy of any criteria developed under the authority granted in subsection (d) of this section;

(2) if the authority granted in subsection (d) of this section is exercised:

(A) whether the authority is still being exercised; and

(B) the number of conditional passes issued since the effective date of this section;

(3) a summary of the status of efforts to amend the Department's rule as required under subsection (a) of this section, and an estimate of the likely effective date of the amended rule if not yet adopted; and

(4) a summary of the status of the requirement to develop a program of waivers related to the emissions component of the State's inspection program and any efforts to educate consumers and inspection stations about issues related to emissions inspections, including: the availability of any such waivers; manufacturer warranties available for emissions components for certain vehicle models and model years; and vehicle readiness for emissions testing.

* * * License Required; Nonresidents * * *

Sec. 24. 23 V.S.A. § 601(a)(2) is amended to read:

(2) In addition to any other requirement of law, a nonresident as defined in section 4 of this title shall not operate a motor vehicle on a Vermont highway unless:

(A) he or she holds a valid license or permit to operate a motor vehicle issued by another U.S. jurisdiction;

(B) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and operates for a period of not more than 30 days for vacation purposes; or

(C) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and:

(i) is 18 or more years of age, is lawfully present in the United States, and has been in the United States for less than one year; and

(ii) ~~the jurisdiction that issued the license is a party to the 1949 Convention on Road Traffic or the 1943 Convention on the Regulation of Inter-American Motor Vehicle Traffic; and~~ [Repealed.]

(iii) he or she possesses an international driving permit, an International Certificate Translation of Driver's License, or an English translation of the home country license prepared by an accredited translator.

Sec. 25. WAIVER OF RECIPROCITY REQUIREMENT FOR ONE YEAR

From July 1, 2018 through July 1, 2019, the provision of 23 V.S.A. § 208 that requires reciprocal recognition of Vermont licenses under the laws of a foreign country in order for a nonresident from that foreign country to be considered licensed or permitted to operate a motor vehicle in Vermont hereby is waived and shall not be enforceable.

* * * Effective Dates * * *

Sec. 26. EFFECTIVE DATES

(a) This section and Secs. 16 (new motor vehicle arbitration), 19 (dealer records), 21 (education campaign; primary enforcement), and 22–23 (motor vehicle inspections) shall take effect on passage, except that notwithstanding 1 V.S.A. § 214, in Sec. 23, subsection (d) shall take effect retroactively on January 1, 2017.

(b) Sec. 20 (primary enforcement of adult seatbelt law) shall take effect on October 1, 2018.

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

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

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

NOTICE CALENDAR

Second Reading

Favorable

H. 916.

An act relating to increasing the moral obligation authority of the Vermont Economic Development Authority.

Reported favorably by Senator Clarkson for the Committee on Economic Development, Housing and General Affairs.

(Committee vote: 4-0-1)

(No House amendments)

Favorable with Proposal of Amendment

H. 132.

An act relating to limiting landowner liability for posting the dangers of swimming holes.

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

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

Sec. 1. 12 V.S.A. § 5793 is amended to read:

§ 5793. LIABILITY LIMITED

(a) Land. An owner shall not be liable for property damage or personal injury sustained by a person who, without consideration, enters or goes upon the owner's land for a recreational use unless the damage or injury is the result of the willful or wanton misconduct of the owner.

(b) Equipment, fixtures, machinery, or personal property.

(1) Unless the damage or injury is the result of the willful or wanton misconduct of the owner, an owner shall not be liable for property damage or personal injury sustained by a person who, without consideration and without actual permission of the owner, enters or goes upon the owner's land for a recreational use and proceeds to enter upon or use:

(A) equipment, machinery, or personal property; or

(B) structures or fixtures not described in subdivision 5792(2)(A)(iii) or (iv) of this title.

(2) Permission to enter or go upon an owner's land shall not, by itself, include permission to enter or go upon structures or to go upon or use equipment, fixtures, machinery, or personal property.

(c) Posting. An owner may post a sign warning against dangers on the owner's land or water. An owner who posts a sign pursuant to this subsection shall not be liable for any damage or injury allegedly arising out of the posting unless the damage or injury is the result of the willful or wanton misconduct of the owner.

Sec. 2. 9 V.S.A. chapter 152 is added to read:

CHAPTER 152. MODEL STATE CONSUMER JUSTICE ENFORCEMENT ACT; STANDARD-FORM CONTRACTS

§ 6055. UNCONSCIONABLE TERMS IN STANDARD-FORM
CONTRACTS PROHIBITED

(a) Unconscionable terms. There is a rebuttable presumption that the following contractual terms are substantively unconscionable when included in a standard-form contract to which only one of the parties to the contract is an individual and that individual does not draft the contract:

(1) A requirement that resolution of legal claims take place in an inconvenient venue. An inconvenient venue is defined for State law claims as a place other than the state in which the individual resides or the contract was consummated and for federal law claims as a place other than the federal judicial district where the individual resides or the contract was consummated.

(2) A waiver of the individual's right to assert claims or seek remedies provided by State or federal statute.

(3) A waiver of the individual's right to seek punitive damages as provided by law.

(4) Pursuant to 12 V.S.A. § 465, a provision that limits the time in which an action may be brought under the contract or that waives the statute of limitations.

(5) A requirement that the individual pay fees and costs to bring a legal claim substantially in excess of the fees and costs that this State's courts require to bring such a State law claim or that federal courts require to bring such a federal law claim.

(b) Relation to common law and the Uniform Commercial Code. In determining whether the terms described in subsection (a) of this section are unenforceable, a court shall consider the principles that normally guide courts in this State in determining whether unconscionable terms are enforceable. Additionally, the common law and Uniform Commercial Code shall guide courts in determining the enforceability of unfair terms not specifically identified in subsection (a) of this section.

(c) Severability. If a court finds that a standard-form contract contains an illegal or unconscionable term, the court shall:

(1) refuse to enforce the entire contract or the specific part, clause, or provision containing the illegal or unconscionable term; or

(2) so limit the application of the illegal or unconscionable term or the clause containing such term as to avoid any illegal or unconscionable result.

(d) Unfair and deceptive act and practice. It is an unfair and deceptive practice in violation of section 2453 of this title to include one of the presumptively unconscionable terms identified in subsection (a) of this section

in a standard-form contract to which only one of the parties to the contract is an individual and that individual does not draft the contract. Notwithstanding any other provisions to the contrary, a party who prevails in a claim under this section shall be entitled to \$1,000.00 in statutory damages per violation and an award of reasonable costs and attorney's fees.

(e) Separate violations. Each term found to be unconscionable pursuant to subsection (a) of this section shall constitute a separate violation of this section.

(f) Applicability. This section shall not apply to contracts to which one party is:

(1) regulated by the Vermont Department of Financial Regulation; or

(2) a financial institution as defined by 8 V.S.A. § 11101(32).

Sec. 3. 12 V.S.A. § 5652 is amended to read:

§ 5652. VALIDITY OF ARBITRATION AGREEMENTS

(a) General rule. Unless otherwise provided in the agreement, a written agreement to submit any existing controversy to arbitration or a provision in a written contract to submit to arbitration any controversy thereafter arising between the parties creates a duty to arbitrate, and is valid, enforceable, and irrevocable, except:

(1) upon such grounds as exist for the revocation of a contract; and

(2) as provided in 9 V.S.A. chapter 152.

* * *

Sec. 4. EFFECTIVE DATES

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

(b) Secs. 2 and Sec. 3 shall take effect on October 1, 2018.

(Committee vote: 5-0-0)

(No House amendments)

H. 526.

An act relating to regulating notaries public.

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

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

Sec. 1. 26 V.S.A. chapter 103 is added to read:

CHAPTER 103. NOTARIES PUBLIC

Subchapter 1. General Provisions

§ 5301. SHORT TITLE

This chapter may be cited as the Uniform Law on Notarial Acts.

§ 5302. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 5303. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. § 7003(b).

§ 5304. DEFINITIONS

As used in this chapter:

(1) “Acknowledgment” means a declaration by an individual before a notary public that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

(2) “Certificate” or “notarial certificate” means the part of, or attachment to, a notarized document that is completed by a notary public, bears the required information set forth in section 5367 of this chapter, and states the facts attested to or certified by the notary public in a particular notarization.

(3) “Commission term” means the two-year period commencing on February 1 and continuing through January 31 of the second year following the commencement of the term.

(4) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(5) “Electronic signature” means an electronic symbol, sound, or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(6) “In a representative capacity” means acting as:

(A) an authorized officer, agent, partner, trustee, or other representative for a person other than an individual;

(B) a public officer, personal representative, guardian, administrator, executor, trustee, or other representative, in the capacity stated in a record;

(C) an agent or attorney-in-fact for a principal; or

(D) an authorized representative of another in any other capacity.

(7)(A) “Notarial act” means an act, whether performed with respect to a tangible or an electronic record, that a notary public may perform under the law of this State. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, attesting a signature, and noting a protest of a negotiable instrument.

(B) “Notarial act” does not include a corporate officer attesting to another corporate officer’s signature in the ordinary course of the corporation’s business.

(C) Nothing in this chapter shall be construed to require the use of a notary public to witness a signature that is allowed by law to be witnessed by an individual who is not a notary public.

(8) “Notarial officer” means a notary public or other individual authorized to perform a notarial act.

(9) “Notary public” means an individual commissioned to perform a notarial act by the Office.

(10) “Office” means the Office of Professional Regulation within the Office of the Secretary of State.

(11) “Official stamp” means a physical image affixed to or embossed on a tangible record or an electronic process, seal, or image or electronic information attached to or logically associated with an electronic record.

(12) “Person” means an individual, corporation, business trust, statutory trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(13) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(15) “Signature” means a tangible symbol or an electronic signature that evidences the signing of a record.

(16) “Stamping device” means:

(A) a physical device capable of affixing to or embossing on a tangible record an official stamp; or

(B) an electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.

(17) “State” means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(18) “Verification on oath or affirmation” means a declaration, made by an individual on oath or affirmation before a notary public, that a statement in a record is true.

§ 5305. EXEMPTIONS

(a) Generally.

(1) The persons set forth in subdivision (2) of this subsection, when acting within the scope of their official duties, are exempt from all of the requirements of this chapter, except for the requirements:

(A) to apply for a commission as set forth in section 5341(a), (b)(1)–(3), (c), (d), and (e) of this chapter; and

(B) unless exempted under subsection (c) of this section, to pay the fee set forth in section 5324 of this chapter:

(2)(A) Persons employed by the Judiciary, including judges, Superior Court clerks, court operations managers, Probate registers, case managers, docket clerks, assistant judges, county clerks, and after-hours relief from abuse contract employees.

(B) Persons employed as law enforcement officers certified under 20 V.S.A. chapter 151; who are noncertified constables; or who are employed by a Vermont law enforcement agency, the Department of Public Safety, of Fish and Wildlife, of Motor Vehicles, of Liquor Control, or for Children and Families, the Office of the Defender General, the Office of the Attorney General, or a State’s Attorney or Sheriff.

(3) As used in subdivision (1) of this subsection, “acting within the scope of official duties” means that a person is notarizing a document that:

(A) he or she believes is related to the execution of his or her duties and responsibilities of employment or is the type of document that other employees notarize in the course of employment;

(B) is useful or of assistance to any person or entity identified in subdivision (2) of this subsection (a);

(C) is required, requested, created, used, submitted, or relied upon by any person or entity identified in subdivision (2) of this subsection (a);

(D) is necessary in order to assist in the representation, care, or protection of a person or the State;

(E) is necessary in order to protect the public or property;

(F) is necessary to represent or assist crime victims in receiving restitution or other services;

(G) relates to a Vermont or federal court rule or statute governing any criminal, postconviction, mental health, family, juvenile, civil, probate, Judicial Bureau, Environmental Division, or Supreme Court matter; or

(H) relates to a matter subject to Title 4, 12, 13, 15, 18, 20, 23, or 33 of the Vermont Statutes Annotated.

(b) Attorneys.

(1) Attorneys licensed and in good standing in this State are exempt from:

(A) the examination requirement set forth in subsection 5341(b) of this chapter; and

(B) the continuing education requirement set forth in section 5343 of this chapter.

(2) If a complaint of a violation of this chapter is filed in regard to a Vermont licensed attorney, the Office shall refer the complaint to the Professional Responsibility Board and shall request a report back from the Board regarding the final disposition of the complaint.

(c) Fees. The following persons are exempt from the fee set forth in section 5324 of this chapter:

(1) a judge, clerk, or other court staff, as designated by the Court Administrator;

(2) State's Attorneys and their deputies and Assistant Attorneys General, public defenders, and their staff;

(3) justices of the peace and town clerks and their assistants; and

(4) State Police officers, municipal police officers, fish and game wardens, sheriffs and deputy sheriffs, motor vehicle inspectors, employees of the Department of Corrections, and employees of the Department for Children and Families.

Subchapter 2. Administration

§ 5321. SECRETARY OF STATE'S OFFICE DUTIES

The Office shall:

(1) provide general information to applicants for commissioning as a notary public;

(2) administer fees as provided under section 5324 of this chapter;

(3) explain appeal procedures to notaries public and applicants and explain complaint procedures to the public; and

(4) receive applications for commissioning, review applications, and grant and renew commissions when appropriate under this chapter.

§ 5322. ADVISOR APPOINTEES

(a) The Secretary of State shall appoint two notaries public to serve as advisors in matters relating to notarial acts. One of the advisors shall be an attorney selected from a list of at least three licensed attorneys provided by the Vermont Bar Association. The advisors shall be appointed for staggered five-year terms and serve at the pleasure of the Secretary. One of the initial appointments shall be for less than a five-year term.

(b) Each appointee shall have at least three years of experience as a notary public during the period immediately preceding appointment and shall be actively commissioned in Vermont and remain in good standing during incumbency.

(c) The Office shall seek the advice of the advisor appointees in carrying out the provisions of this chapter. The appointees shall be entitled to compensation and reimbursement of expenses as set forth in 32 V.S.A. § 1010 for attendance at any meeting called by the Office for this purpose.

§ 5323. RULES

(a) The Office, with the advice of the advisor appointees, may adopt rules to implement this chapter. The rules may:

(1) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(3) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(4) prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking or otherwise disciplining a notary public and assuring the trustworthiness of an individual holding a commission as notary public; and

(5) include provisions to prevent fraud or mistake in the performance of notarial acts.

(b) Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. In adopting, amending, or repealing rules regarding notarial acts with respect to electronic records, the Office shall consider, as far as is consistent with this chapter:

(1) the most recent standards regarding electronic records promulgated by national bodies, such as the National Association of Secretaries of State;

(2) standards, practices, and customs of other jurisdictions that substantially enact this chapter; and

(3) the views of governmental officials and entities and other interested persons.

§ 5324. FEES

For the issuance of a commission as a notary public, the Office shall collect a fee of \$15.00.

Subchapter 3. Commissions

§ 5341. COMMISSION AS NOTARY PUBLIC; QUALIFICATIONS; NO IMMUNITY OR BENEFIT

(a) An individual qualified under subsection (b) of this section may apply to the Office for a commission as a notary public. The applicant shall comply with and provide the information required by rules adopted by the Office and pay the application fee set forth in section 5324 of this chapter.

(b) An applicant for a commission as a notary public shall:

(1) be at least 18 years of age;

(2) be a citizen or permanent legal resident of the United States;

(3) be a resident of or have a place of employment or practice in this State;

(4) not be disqualified to receive a commission under section 5342 of this chapter; and

(5) pass a basic examination approved by the Office based on the statutes, rules, and ethics relevant to notarial acts.

(c) Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office and submit it to the Office.

(d) Upon compliance with this section, the Office shall issue a commission as a notary public to an applicant, which shall be valid through the then current commission term end date.

(e) A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this State on public officials or employees.

§ 5342. GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND, OR CONDITION COMMISSION OF NOTARY PUBLIC

(a) The Office may deny, refuse to renew, revoke, suspend, or impose a condition on a commission as notary public for any act or omission that demonstrates the individual lacks the honesty, integrity, competence, or reliability to act as a notary public, including:

(1) failure to comply with this chapter;

(2) a fraudulent, dishonest, or deceitful misstatement or omission in the application for a commission as a notary public submitted to the Office;

(3) a conviction of the applicant or notary public of any felony or a crime involving fraud, dishonesty, or deceit;

(4) a finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty, or deceit;

(5) failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules of the Office, or any federal or State law;

(6) use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right, or privilege that the notary does not have;

(7) violation by the notary public of a rule of the Office regarding a notary public;

(8) denial, refusal to renew, revocation, suspension, or conditioning of a notary public commission in another state; or

(9) committing any of the conduct set forth in 3 V.S.A. § 129a(a).

(b) If the Office denies, refuses to renew, revokes, suspends, or imposes conditions on a commission as a notary public, the applicant or notary public is entitled to timely notice and hearing in accordance with 3 V.S.A. chapter 25.

§ 5343. RENEWALS; CONTINUING EDUCATION

(a) Biennially, the Office shall provide a renewal notice to each commissioned notary public. Upon receipt of a notary public's completed renewal, payment of the fee as set forth in section 5324 of this chapter, and evidence of eligibility, the Office shall issue to him or her a new commission.

(b) A notary public applying for renewal shall complete continuing education approved by the Office, which shall not be required to exceed two hours, during the preceding two-year period.

(c) The Office, with the advice of the advisor appointees, shall establish by rule guidelines and criteria for continuing education credit.

§ 5344. DATABASE OF NOTARIES PUBLIC

The Office shall maintain an electronic database of notaries public:

(1) through which a person may verify the authority of a notary public to perform notarial acts; and

(2) that indicates whether a notary public has notified the Office that the notary public will be performing notarial acts on electronic records.

§ 5345. PROHIBITIONS; OFFENSES

(a) A person shall not perform or attempt to perform a notarial act or hold himself or herself out as being able to do so in this State without first having been commissioned.

(b) A person shall not use in connection with the person's name any letters, words, or insignia indicating or implying that the person is a notary public unless commissioned in accordance with this chapter.

(c) A person shall not perform or attempt to perform a notarial act while his or her commission has been revoked or suspended.

(d) A person who violates a provision of this section shall be subject to a fine of not more than \$5,000.00 or imprisonment for not more than one year, or both. Prosecution may occur upon the complaint of the Attorney General or a State's Attorney and shall not act as a bar to civil or administrative proceedings involving the same conduct.

(e) A commission as a notary public shall not authorize an individual to assist a person in drafting legal records, give legal advice, or otherwise practice law.

(f) Except as otherwise allowed by law, a notary public shall not withhold access to or possession of an original record provided by a person who seeks performance of a notarial act by the notary public.

Subchapter 4. Notarial Acts

§ 5361. NOTARIAL ACTS IN THIS STATE; AUTHORITY TO PERFORM

(a) A notarial act may only be performed in this State by a notary public commissioned under this chapter.

(b) The signature and title of an individual performing a notarial act in this State are prima facie evidence that the signature is genuine and that the individual holds the designated title.

§ 5362. AUTHORIZED NOTARIAL ACTS

(a) A notary public may perform a notarial act authorized by this chapter or otherwise by law of this State.

(b) A notary public shall not perform a notarial act with respect to a record to which the notary public or the notary public's spouse is a party, or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

§ 5363. REQUIREMENTS FOR CERTAIN NOTARIAL ACTS

(a) Acknowledgments. A notary public who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

(b) Verifications. A notary public who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

(c) Signatures. A notary public who attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

(d) Protests. A notary public who makes or notes a protest of a negotiable instrument shall determine the matters set forth in 9A V.S.A. § 3-505(b), protest; certificate of dishonor.

§ 5364. PERSONAL APPEARANCE REQUIRED

(a) If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notary public.

(b) A personal appearance does not include an acknowledgment using video conferencing software that uses the transmission of video images, or any other form of communication in which the notary public and the person requesting the notarial act are not in the same physical location at the same time.

§ 5365. IDENTIFICATION OF INDIVIDUAL

(a) Personal knowledge. A notary public has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(b) Satisfactory evidence. A notary public has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(1) by means of:

(A) a passport, driver's license, or government issued non-driver identification card, which is current or expired not more than three years before performance of the notarial act; or

(B) another form of government identification issued to an individual, which is current or expired not more than three years before performance of the notarial act, contains the signature or a photograph of the individual, and is satisfactory to the officer; or

(2) by a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of a passport, driver's license, or government issued non-driver identification card, which is current or expired not more than three years before performance of the notarial act.

(c) Additional information. A notary public may require an individual to provide additional information or identification credentials necessary to assure the notary public of the identity of the individual.

§ 5366. SIGNATURE IF INDIVIDUAL UNABLE TO SIGN

If an individual is physically unable to sign a record, the individual may direct an individual other than the notary public to sign the individual's name on the record. The notary public shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import.

§ 5367. CERTIFICATE OF NOTARIAL ACT

(a) A notarial act shall be evidenced by a certificate. The certificate shall:

(1) be executed contemporaneously with the performance of the notarial act;

(2) be signed and dated by the notary public and be signed in the same manner as on file with the Office;

(3) identify the jurisdiction in which the notarial act is performed;

(4) contain the title of office of the notary public; and

(5) indicate the date of expiration of the officer's commission.

(b)(1) If a notarial act regarding a tangible record is performed by a notary public, an official stamp shall be affixed to or embossed on the certificate or, in the alternative, the notary shall clearly print or type the notary public's name and commission number on the certificate.

(2) If a notarial act regarding an electronic record is performed by a notary public and the certificate contains the information specified in subdivisions (a)(2)–(4) of this section, an official stamp may be attached to or logically associated with the certificate.

(c) A certificate of a notarial act is sufficient if it meets the requirements of subsections (a) and (b) of this section and:

(1) is in a short form as set forth in section 5368 of this chapter;

(2) is in a form otherwise permitted by the law of this State;

(3) is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or

(4) sets forth the actions of the notary public and the actions are sufficient to meet the requirements of the notarial act as provided in sections 5362–5364 of this chapter or a law of this State other than this chapter.

(d) By executing a certificate of a notarial act, a notary public certifies that the notary public has complied with the requirements and made the determinations specified in sections 5363–5365 of this chapter.

(e) A notary public shall not affix the notary public's signature to, or logically associate it with, a certificate until the notarial act has been performed.

(f)(1) If a notarial act is performed regarding a tangible record, a certificate shall be part of, or securely attached to, the record.

(2) If a notarial act is performed regarding an electronic record, the

certificate shall be affixed to, or logically associated with, the electronic record.

(3) If the Office has established standards by rule pursuant to section 5323 of this chapter for attaching, affixing, or logically associating the certificate, the process shall conform to those standards.

§ 5368. SHORT-FORM CERTIFICATES

The following short-form certificates of notarial acts shall be sufficient for the purposes indicated, if completed with the information required by subsections 5367(a) and (b) of this chapter:

(1) For an acknowledgment in an individual capacity:

State of Vermont [County] of _____
This record was acknowledged before me on _____ by _____
Date _____ Name(s) of individual(s) _____
Signature of notary public _____
Stamp [_____]
Title of office _____ [My commission expires: _____]

(2) For an acknowledgment in a representative capacity:

State of Vermont [County] of _____
This record was acknowledged before me on _____ by _____
Date _____ Name(s) of individual(s) _____
as _____ (type of authority, such as officer or trustee) of _____ (name of party on behalf of whom _____ record was _____ executed).
Signature of notary public _____
Stamp [_____]
Title of office _____ [My commission expires: _____]

(3) For a verification on oath or affirmation:

State of Vermont [County] of _____
Signed and sworn to (or affirmed) before me on _____
by _____
Date _____
Name(s) of individual(s) making statement _____
Signature of notary public _____
Stamp [_____]
Title of office _____ [My commission expires: _____]

(4) For attesting a signature:

State of Vermont [County] of _____
Signed [or attested] before me on _____ by _____
Date _____ Name(s) of individual(s) _____

Signature of notary public
Stamp [_____]
Title of office _____ [My commission expires: _____]

§ 5369. OFFICIAL STAMP

The official stamp of a notary public shall:

(1) include the notary public's name, jurisdiction, and other information required by the Office; and

(2) be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

§ 5370. STAMPING DEVICE

(a) A notary public is responsible for the security of the notary public's stamping device and shall not allow another individual to use the device to perform a notarial act.

(b) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the Office on discovering that the device is lost or stolen.

§ 5371. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC RECORD; SELECTION OF TECHNOLOGY

(a) A notary public may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records from the tamper-evident technologies approved by the Office by rule. A person shall not require a notary public to perform a notarial act with respect to an electronic record with a technology that the notary public has not selected.

(b) Before a notary public performs the notary public's initial notarial act with respect to an electronic record, the notary public shall notify the Office that the notary public will be performing notarial acts with respect to electronic records and identify the technology the notary public intends to use from the list of technologies approved by the Office by rule. If the Office has established standards by rule for approval of technology pursuant to section 5323 of this chapter, the technology shall conform to the standards. If the technology conforms to the standards, the Office shall approve the use of the technology.

§ 5372. AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT

(a) A notary public may refuse to perform a notarial act if the notary public is not satisfied that:

(1) the individual executing the record is competent or has the capacity to execute the record; or

(2) the individual's signature is knowingly and voluntarily made.

(b) A notary public may refuse to perform a notarial act unless refusal is prohibited by law other than this chapter.

§ 5373. VALIDITY OF NOTARIAL ACTS

(a) Except as otherwise provided in subsection 5372(b) of this chapter, the failure of a notary public to perform a duty or meet a requirement specified in this chapter shall not impair the marketability of title or invalidate a notarial act or a certification evidencing the notarial act.

(b) An acknowledgment that contains a notary commission expiration date that is either inaccurate or expired shall not invalidate the acknowledgment if it can be established that on the date the acknowledgment was taken, the notary public's commission was active.

(c) The validity of a notarial act under this chapter shall not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this State other than this chapter or law of the United States.

(d) Defects in the written evidence of acknowledgment in a document in the public records may be cured by the notary public who performed the original notarial act. The notary public shall, under oath and before a different notary public, execute a writing correcting any defect. Upon recording, the corrective document corrects any deficiency and ratifies the original written evidence of acknowledgment as of the date the acknowledgment was originally taken.

(e) Notwithstanding any provision of law to the contrary, a document that conveys an interest in real property shall be recordable in the land records and, if recorded, shall be sufficient for record notice to third parties, notwithstanding the failure of a notary public to perform any duty or meet any requirement specified in this chapter. Such failure includes the failure to comply in full or in part with the requirements of sections 5367-5369 of this title.

(f) This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

§ 5374. NOTARIAL ACT IN ANOTHER STATE

(a) A notarial act performed in another state has the same effect under the law of this State as if performed by a notary public of this State, if the act performed in that state is performed by:

(1) a notary public of that state;

(2) a judge, clerk, or deputy clerk of a court of that state; or

(3) any other individual authorized by the law of that state to perform the notarial act.

(b) If a deed or other conveyance or a power of attorney for the conveyance of land, the acknowledgment or proof of which is taken out of State, is certified agreeably to the laws of the state in which the acknowledgment or proof is taken, it shall be valid as though it were taken before a proper officer in this State.

(c) An acknowledgment for a deed or other conveyance or a power of attorney for the conveyance of land that is taken out of State before a proper officer of this State shall be valid as if taken within this State.

(d) The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(e) The signature and title of a notarial officer described in subdivision (a)(1) or (2) of this section conclusively establish the authority of the officer to perform the notarial act.

§ 5375. NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY
RECOGNIZED INDIAN TRIBE

(a) A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notary public of this State, if the act performed in the jurisdiction of the tribe is performed by:

(1) a notary public of the tribe;

(2) a judge, clerk, or deputy clerk of a court of the tribe; or

(3) any other individual authorized by the law of the tribe to perform the notarial act.

(b) The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of a notarial officer described in subdivision (a)(1) or (2) of this section conclusively establish the authority of the officer to perform the notarial act.

§ 5376. NOTARIAL ACT UNDER FEDERAL AUTHORITY

(a) A notarial act performed under federal law has the same effect under the law of this State as if performed by a notary public of this State, if the act performed under federal law is performed by:

(1) a judge, clerk, or deputy clerk of a court;

(2) an individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;

(3) an individual designated a notarizing officer by the U.S. Department of State for performing notarial acts overseas; or

(4) any other individual authorized by federal law to perform the notarial act.

(b) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(c) The signature and title of an officer described in subdivision (a)(1), (2), or (3) of this section shall conclusively establish the authority of the officer to perform the notarial act.

§ 5377. EVIDENCE OF AUTHENTICITY OF NOTARIAL ACT PERFORMED IN THIS STATE

(a) The authenticity of the official notarial stamp and signature of a notary public may be evidenced by either:

(1) A certificate of authority from the Secretary of State authenticated as necessary.

(2) An apostille from the Secretary of State in the form prescribed by the Hague convention of October 5, 1961 abolishing the requirement of legalization of foreign public documents.

(b) An apostille as specified by the Hague convention shall be attached to any document that requires authentication and that is sent to a nation that has signed and ratified this convention.

§ 5378. FOREIGN NOTARIAL ACT

(a) In this section, “foreign state” means a government other than the United States, a state, or a federally recognized Indian tribe.

(b) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this State as if performed by a notary public of this State.

(c) If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(d) The signature and official stamp of an individual holding an office described in subsection (c) of this section are prima facie evidence that the signature is genuine and the individual holds the designated title.

(e) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the Convention, conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(f) A consular authentication issued by an individual designated by the U.S. Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

Sec. 2. 27 V.S.A. § 341 is amended to read:

§ 341. REQUIREMENTS GENERALLY; RECORDING

(a) Deeds and other conveyances of lands, or of an estate or interest therein, shall be signed by the party granting the same and acknowledged by the grantor before a ~~town clerk, notary public, master, or county clerk~~ and recorded at length in the clerk's office of the town in which such lands lie. Such acknowledgment before a notary public shall be valid without an official seal stamp being affixed to his or her signature.

(b) A deed or other conveyance of land ~~which~~ that includes a reference to a survey prepared or revised after July 1, 1988 may be recorded only if it is accompanied by the survey to which it refers, or cites the volume and page in the land records showing where the survey has previously been recorded.

(c) A lease of real property that has a term of more than one year from the making of the lease need not be recorded at length if a notice or memorandum of lease, which is executed and acknowledged as provided in subsection (a) of this section, is recorded in the land records of the town in which the leased property is situated. The notice of lease shall contain at least the following information:

- (1) the names of the parties to the lease as set forth in the lease;
- (2) a statement of the rights of a party to extend or renew the lease;
- (3) any addresses set forth in the lease as those of the parties;

- (4) the date of the execution of the lease;
- (5) the term of the lease, the date of commencement, and the date of termination;
- (6) a description of the real property as set forth in the lease;
- (7) a statement of the rights of a party to purchase the real property or exercise a right of first refusal with respect thereto;
- (8) a statement of any restrictions on assignment of the lease; and
- (9) the location of an original lease.

Sec. 3. 27 V.S.A. § 342 is amended to read:

§ 342. ACKNOWLEDGMENT AND RECORDING REQUIRED

A deed of bargain and sale, a mortgage or other conveyance of land in fee simple or for term of life, or a lease for more than one year from the making thereof shall not be effectual to hold such lands against any person but the grantor and his or her heirs, unless the deed or other conveyance is acknowledged and recorded as provided in this chapter.

Sec. 4. 27 V.S.A. § 463 is amended to read:

§ 463. BY SEPARATE INSTRUMENT

(a) Mortgages may be discharged by an acknowledgment of satisfaction, executed by the mortgagee or his or her attorney, executor, administrator, or assigns, which shall be substantially in the following form:

I hereby certify that the following described mortgage is paid in full and satisfied, viz: _____ mortgagor to _____ mortgagee, dated _____ 20____, and recorded in book _____, page _____, of the land records of the town of _____.

(b) When such satisfaction is acknowledged before a ~~town clerk~~, notary public, ~~master, or county clerk~~, and recorded, it shall discharge such mortgage and bar actions brought thereon.

Sec. 5. REPEALS

The following are repealed:

- (1) 24 V.S.A. chapter 5, subchapter 9 (notaries public);
- (2) 27 V.S.A. § 379 (conveyance of real estate; execution and acknowledgment; acknowledgment out of state);
- (3) 32 V.S.A. § 1403(b) (county clerk; notaries public without charge or fee);

(4) 32 V.S.A. § 1436 (fee for certification of appointment as notary public); and

(5) 32 V.S.A. § 1759 (notaries public fees).

Sec. 6. APPLICABILITY; NOTARY PUBLIC COMMISSION IN EFFECT

(a)(1) This act shall apply to a notarial act performed on or after the effective date of this act.

(2) A notary public, in performing notarial acts on and after the effective date of this act, shall comply with the provisions of this act.

(b)(1) A commission as a notary public in effect on the effective date of this act shall continue until its date of expiration.

(2) A notary public who applies to renew a commission as a notary public on or after the effective date of this act shall comply with the provisions of this act.

Sec. 7. SAVINGS CLAUSE

This act shall not affect the validity or effect of a notarial act performed prior to the effective date of this act.

Sec. 8. POTENTIAL ENACTMENT OF UNIFORM UNSWORN DECLARATIONS ACT; REPORT BY AFFECTED ENTITIES

(a) The General Assembly is considering enacting a law similar to the April 2015 draft of the Uniform Unsworn Declarations Act (UUDA) prepared by the National Conference of Commissioners on Uniform State Laws.

(b) In order to understand the UUDA's potential effect on State operations, on or before June 30, 2019, the Secretary of Administration on behalf of the Administration and the State's boards, councils, and commissions; the Attorney General; the Secretary of State; the Executive Director of the Department of State's Attorneys and Sheriffs; the Defender General; the Auditor of Accounts; the State Treasurer; and the Court Administrator shall each submit to the General Assembly a summary regarding the effect of the enactment of the UUDA on each entity and the users of its operations. The summary shall include the following in regard to the entity's operations:

(1) an identification of forms requiring a notarial act and any proceeding or action requiring the use of such forms that are created, used, or required by the entity;

(2) an explanation of whether continued use of a notarial act on a particular form is recommended and if so, why;

(3) any recommendations for amendments to the UUDA;

(4) a draft of any suggested legislation, rules, or forms, including amendments to existing rules and forms, as may be necessary to address issues arising from the enactment of the UUDA;

(5) an identification of the resources, timeline, and expenses related to any necessary rulemaking or form change based on the enactment of the UUDA.

Sec. 9. EFFECTIVE DATES; TRANSITIONAL PROVISIONS

This act shall take effect on July 1, 2019, except that:

(1) this section shall take effect on passage;

(2) the Office of Professional Regulation may adopt rules in accordance with the provisions of Sec. 1 prior to the effective date of that section;

(3) beginning on December 1, 2018, the Office of Professional Regulation shall perform the duties of the assistant judges and county clerks in regard to receiving applications and commissioning notaries public as set forth in 24 V.S.A. chapter 5, subchapter 9 (county officers; notaries public) for the two-year notaries public commission terms that begin on February 1, 2019 in accordance with Sec. 1; and

(4) in Sec. 1, the examination requirement for new notaries public applicants set forth in 26 V.S.A. § 5341(b)(5) and the continuing education requirement for notaries public renewal applicants set forth in 26 V.S.A. § 5343(b) shall take effect on February 1, 2021 and shall apply to those applicants for the notaries public commission terms that begin on that date.

(Committee vote: 5-0-0)

(No House amendments)

Reported favorably by Senator Sirotkin for the Committee on Finance.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Government Operations.

(Committee vote: 7-0-0)

H. 571.

An act relating to creating the Department of Liquor and Lottery and the Board of Liquor and Lottery.

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

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

First: In Sec. 63, 7 V.S.A. § 278, by striking out subsection (a) in its entirety and inserting in lieu thereof the following:

(a) A manufacturer or rectifier of vinous beverages that is licensed in ~~state the State or out of state~~ outside the State and holds valid state and federal permits and operates a winery in the United States may apply for a retail shipping license by filing with the ~~Department~~ Division of Liquor Control an application in a form required by the Commissioner accompanied by a copy of its in-state or out-of-state license and the fee provided in section 204 of this title.

Second: In Sec. 90, 31 V.S.A. § 654a, redesignated § 652, in subdivision (2)(C), after the words “A procedure adopted pursuant to this section shall” by inserting the following: have the force of law and

Third: In Sec. 94, 31 V.S.A. § 650, redesignated § 656, in subsection (b), in the second sentence before the second occurrence of the phrase “percent of gross receipts,” by striking out the number “1” and inserting in lieu thereof the following: ± one

Fourth: After Sec. 111, by inserting new Secs. 112, 113, and 114 to read:

Sec. 112. 7 V.S.A. § 660 is amended to read:

§ 660. ADVERTISING

(a) ~~A person shall not display on Any outside billboards or signs erected on the highway any that contain an advertisement of any kind~~ relating to alcoholic beverages, or indicate where alcoholic beverages may be procured shall comply with the requirements of 10 V.S.A. chapter 21. A person who violates any provision of this section shall be fined not more than \$100.00 nor less than \$10.00, for each offense, and a conviction for a violation shall be cause for revoking the person’s license issued under this title.

* * *

Sec. 113. 13 V.S.A. § 2143 is amended to read:

§ 2143. NONPROFIT ORGANIZATIONS

(a)(1) Notwithstanding the provisions of this chapter, ~~a~~

(A) A nonprofit organization, as defined in 31 V.S.A. § 1201(5), may organize and execute, and an individual may participate in lotteries, raffles, or other games of chance for the purpose of raising funds to be used in charitable, religious, educational, and civic undertakings or used by fraternal organizations to provide direct support to charitable, religious, educational, or civic undertakings with which they are affiliated.

(B) A nonprofit organization, as defined in 31 V.S.A. § 1201(5), may organize and execute, and a member of that organization may participate in, lotteries, raffles, or other games of chance in which all of the proceeds are awarded as prizes to the members who participated. An individual who is not a member of the nonprofit organization shall not be allowed to participate in a lottery, raffle, or other game of chance organized under this subdivision (B).

(2) Except as provided in subsection (d) of this section, gambling machines and other mechanical devices described in section 2135 of this title shall not be ~~utilized~~ used under authority of this section.

* * *

(d) Casino events shall be limited as follows:

* * *

(4) As used in this subsection, “casino event” means an event held during any 24-hour period at which ~~any game of chance is a card tournament or casino table games, such as baccarat, blackjack, craps, poker, or roulette, or both are conducted except those.~~ Games of chance prohibited by subdivision 2135(a)(1) or (2) of this title- shall not be permitted at a “casino event.” A “casino event” shall not include a fair, bazaar, field days, agricultural exposition, or similar event that ~~utilizes~~ uses a wheel of fortune, chuck-a-luck, or other ~~such~~ games commonly conducted at such events, or break-open tickets, bingo, a lottery, or a raffle. “Card tournament” means an event during which participants, as individual players or members of a team, pay a fixed entry fee to play a series of card games, with the tournament winners determined based on the cumulative results of the games and the winners’ prizes determined as a portion of the proceeds from the entry fees.

(e) Games of chance shall be limited as follows:

(1) ~~All~~ Except as otherwise provided pursuant to subdivision (a)(1)(B) of this section, all proceeds raised by a game of chance shall be used exclusively for charitable, religious, educational, and civic undertakings after deducting:

* * *

Sec. 114. EDUCATION AND OUTREACH

On or before November 15, 2018, the Attorney General shall update the gambling page on the Attorney General's website to include the amendments to 13 V.S.A. § 2143 made pursuant to this act.

And by renumbering the remaining section to be numerically correct.

(Committee vote: 4-0-1)

(For House amendments, see House Journal for February 20, 2018, pages 416-417 and February 21, 2018, page 419)

H. 731.

An act relating to miscellaneous workers' compensation and occupational safety amendments.

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

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

* * * Workers' Compensation; Protection Against Retaliation * * *

Sec. 1. 21 V.S.A. § 710 is amended to read:

§ 710. UNLAWFUL DISCRIMINATION

(a) No person, firm, or corporation shall refuse to employ any applicant for employment because ~~such~~ the applicant asserted a claim for workers' compensation benefits under this chapter or under the law of any state or of the United States. Nothing in this section shall require a person to employ an applicant who does not meet the qualifications of the position sought.

(b) No person shall discharge or discriminate against an employee from employment because ~~such~~ the employee asserted or attempted to assert a claim for benefits under this chapter or under the law of any state or of the United States.

(c) The Department shall not include in any publication or public report the name or contact information of any individual who has alleged that an employer has made a false statement or misclassified any employees, unless it is required by law or necessary to enable enforcement of this chapter.

(d) An employer shall not retaliate or take any other negative action against an individual because the employer knows or suspects that the individual has

filed a complaint ~~with the Department or other authority~~, or reported a violation of this chapter, or has testified, assisted, or cooperated in any manner with the Department or other appropriate governmental agency or department in an investigation of misclassification, discrimination, or other violation of this chapter.

(e) The Attorney General or a State's Attorney may enforce the provisions of this section by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458-2461 as though ~~discrimination under a violation of~~ this section were an unfair act in commerce.

(f) The provisions against retaliation in subdivision 495(a)(8) of this title and the penalty and enforcement provisions of section 495b of this title shall apply to this ~~subchapter~~ section.

* * * Workers' Compensation Administration Fund * * *

Sec. 2. WORKERS' COMPENSATION RATE OF CONTRIBUTION

For fiscal year 2019, after consideration of the formula in 21 V.S.A. § 711(b) and historical rate trends, the General Assembly has established that the rate of contribution for the direct calendar year premium for workers' compensation insurance shall remain at the rate of 1.4 percent. The contribution rate for self-insured workers' compensation losses and workers' compensation losses of corporations approved under 21 V.S.A. chapter 9 shall remain at one percent.

Sec. 3. POTENTIAL DELEGATION OF RATE SETTING AUTHORITY; REPORT

On or before January 15, 2019, the Commissioner of Labor shall submit a written report to the House Committees on Commerce and Economic Development and on Ways and Means and the Senate Committees on Economic Development, Housing and General Affairs and on Finance regarding the potential for delegating the authority to set the Workers' Compensation Administration Fund rate of contribution for the direct calendar year premium for workers' compensation insurance to the Commissioner of Labor. In particular, the report shall:

(1) describe how the Department calculates the rate of contribution that it annually proposes to the General Assembly pursuant to 21 V.S.A. § 711(b);

(2) identify any advantages and disadvantages of the General Assembly's delegating to the Commissioner of Labor authority to establish annually the rate of contribution for the direct calendar year premium for workers' compensation insurance; and

(3) identify any legislative, regulatory, and administrative changes that would need to be made in order to delegate to the Commissioner the authority to establish annually the rate of contribution for the direct calendar year premium for workers' compensation insurance.

* * * Discontinuance of Workers' Compensation Benefits * * *

Sec. 4. 2014 Acts and Resolves No. 199, Sec. 54a is amended to read:

Sec. 54a. REPEAL

21 V.S.A. § 643a shall be repealed on July 1, ~~2018~~ 2023.

Sec. 5. 2014 Acts and Resolves No. 199, Sec. 69 is amended to read:

Sec. 69. EFFECTIVE DATES

* * *

(b) Sec. 54b (reinstatement of current law governing discontinuance of workers' compensation insurance benefits) shall take effect on July 1, ~~2018~~ 2023.

* * *

* * * Vermont Occupational Safety and Health Act * * *

Sec. 6. 21 V.S.A. § 225 is amended to read:

§ 225. CITATIONS

(a)(1) If, upon inspection or investigation, the Commissioner or the Director, or the agent of either of them, finds that an employer has violated a requirement of the VOSHA Code, the Commissioner shall with reasonable promptness issue a citation to the employer and serve it on the employer by certified mail or in the same manner as a summons to the Superior Court. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the provisions of the statute, standard, rule, or order alleged to have been violated, as well as the penalty, if any, proposed to be assessed pursuant to section 210 of this title. In addition, the citation shall fix a reasonable time for the abatement of the violation.

(2) By rule, the Commissioner shall ~~prescribe~~ adopt procedures for issuance of a notice in lieu of a citation with respect to ~~de minimus~~ minimis violations ~~which~~ that have no direct or immediate relationship to safety or health, and for hearing interested parties before a civil penalty is assessed.

(b) Each citation issued under this section, or a copy or copies ~~thereof~~ of the citation, shall be prominently posted, as prescribed in rules ~~promulgated~~ adopted by the Commissioner, at or near each place a violation referred to in the citation occurred or existed.

* * *

Sec. 7. 21 V.S.A. § 226 is amended to read:

§ 226. ENFORCEMENT

~~(a)(1) After issuing a citation under section 225 of this title, the Commissioner shall notify the employer by certified mail or by service by an agent, of the penalty, if any, proposed to be assessed under section 210 of this title. The An employer shall have, within 20 days after personal service or receipt of the notice within which to a citation issued under section 225 of this title, notify the Commissioner that he or she wishes to appeal the citation or proposed assessment of penalty, and if no notice is filed by.~~

(2) If an employer does not notify the Commissioner as provided in this subsection and an employee does not file a notice under subsection (c) of this section, the citation and assessment penalty, as proposed, shall be deemed a final order of the Review Board and not subject to review by any court or agency.

~~(b)(1)(A) If the Commissioner on inspection or investigation finds that an employer has failed to correct a violation for which a citation has been issued within the period permitted for its correction (which period shall not begin to run until the entry of a final order by the Review Board in the case of any review proceedings under this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, or on the day the citation and assessment becomes final under subsection (a) of this section), the Commissioner shall notify the employer by certified mail of such the failure and of the penalty proposed to be assessed under section 210 of this title by reason of such the failure.~~

(B) The period to correct a violation shall begin to run:

(i) when a final order is entered by the Review Board in relation to review proceedings under this section that are initiated by an employer in good faith and not solely for delay or avoidance of penalties; or

(ii) on the day the citation and penalty become final under subsection (a) of this section.

(2) The employer shall have 20 days after the receipt of the notice within which to notify the Commissioner that he or she wishes to appeal the Commissioner's notification citation or the proposed assessment of penalty. If within 20 days from the receipt of the notification issued by the Commissioner, the employer fails to notify the Commissioner that he or she intends to appeal the notification or proposed assessment of penalty, the notification citation and assessment, as proposed, shall be deemed a final order of the Review Board and not subject to review by any court or agency.

(c) If an employer notifies the Commissioner that he or she intends to contest a citation issued under section 225 of this title ~~or notification issued under subsection (a) or (b) of this section~~, or if, within 20 days ~~of~~ after the issuance of a citation issued under section 225 of this title, any employee or representative of employees files a notice with the Commissioner alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Commissioner shall immediately advise the Review Board of such ~~the~~ the notification and the Review Board shall afford an opportunity for a hearing. Unless ~~the a~~ a notice is timely filed, the proposed penalty and, in appropriate cases, the ~~notification of the Commissioner citation~~ shall be deemed a final order of the Review Board not subject to review by any court or agency.

(d) After hearing an appeal, the Review Board shall ~~thereafter~~ issue an order based on findings of fact ~~affirming, modifying, or vacating~~ that affirms, modifies, or vacates the Commissioner's citation or proposed penalty, ~~or both, or directing provides other appropriate relief, and the.~~ The order shall become final 30 days after its issuance unless judicial review is timely taken under section 227 of this title. The rules of procedure ~~prescribed~~ adopted by the Review Board shall provide affected employees or their representatives with an opportunity to participate as parties in ~~hearings~~ a hearing under this subsection.

* * * Report on Debarment * * *

Sec. 8. DEBARMENT; OFFICE OF LEGISLATIVE COUNCIL; REPORT

(a) On or before January 15, 2019, the Office of Legislative Council shall submit to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on Commerce and Economic Development a written report on the use of debarment in relation to the laws against employee misclassification. In particular, the report shall:

(1) summarize Vermont's laws, rules, and procedures related to debarment, including the violations that can trigger a debarment proceeding;

(2) describe the use of Vermont's debarment procedures and why they have not been used more frequently to date;

(3) identify any obstacles that prevent or hinder the use of Vermont's debarment procedures;

(4) summarize the actions taken by the Agencies of Administration and of Transportation and the Departments of Labor, of Financial Regulation, and of Buildings and General Services to utilize debarment to ensure that the State is not contracting with employers that misclassify employees in violation of Vermont law;

(5) identify other states that utilize debarment as a means of enforcing the laws against employee misclassification and summarize the manner and frequency of debarment proceedings in those states;

(6) summarize specific characteristics of other states' laws, rules, and procedures related to debarment that have been identified as either enhancing or limiting their effectiveness in enforcing those states' laws against employee misclassification; and

(7) summarize any legislative, regulatory, or administrative changes that are identified by the Agency of Administration, Agency of Transportation, Department of Labor, Department of Financial Regulation, or Department of Buildings and General Services as necessary to make debarment a more effective tool for reducing the occurrence of and enforcing the laws against employee misclassification.

(b) In preparing the report, the Office of Legislative Council shall consult with the Agencies of Administration and of Transportation and the Departments of Labor, of Financial Regulation, and of Buildings and General Services.

(c) The Secretaries of Administration and of Transportation and the Commissioners of Labor, of Financial Regulation, and of Buildings and General Services shall, upon request, promptly provide the Office of Legislative Council with any pertinent information related to debarment procedures and the use of debarment as a means of enforcing Vermont's laws against employee misclassification.

* * * Effective Dates * * *

Sec. 9. EFFECTIVE DATES

(a) This section and Secs. 4, 5, 6, and 7 shall take effect on passage.

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

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 28, 2018, pages 471-475)

H. 859.

An act relating to requiring municipal corporations to affirmatively vote to retain ownership of lease lands.

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

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

Sec. 1. 24 V.S.A. § 2409 is added to read:

§ 2409. RETENTION OF MUNICIPAL OWNERSHIP OF LEASE LANDS

(a) As used in this section:

(1) “Legislative body” means the officer or officers of a municipal corporation who are charged with the care of the municipal corporation’s lease lands.

(2) “Lessee” means the person entitled to possess, enjoy, and use land subject to a perpetual lease and shall include the person’s heirs, executors, administrators, and assigns.

(3) “Municipal corporation” shall have the same meaning as “municipality” in 1 V.S.A. § 126 and shall also include every municipal corporation identified in subdivision 1751(1) of this title, county grammar schools, any unorganized towns and gores in the State, and any of the unified towns and gores of Essex County. “Municipal corporation” shall not include the University of Vermont and State Agricultural College.

(4) “Perpetual lease” means any leasehold interest in Vermont land, and every estate in Vermont land other than fee simple absolute, the title to which is held by a municipal corporation according to section 2401 of this title, arising out of or created by an instrument of lease that conveys to a person designated as lessee the right to possess, enjoy, and use the land in perpetuity or substantially in perpetuity. “Perpetual lease” shall include leasehold interests that are subject to restrictions on the lessee’s use of the land and shall include lands that the municipal corporation may repossess for nonpayment of rent or other default under the terms of the lease.

(5) “Perpetual lease land” means all land described in a perpetual lease that is owned by or vested in a municipal corporation. “Perpetual lease land” does not include land described in a perpetual lease that is held in title by any person other than a municipal corporation, or any land described in a perpetual lease over which the municipal corporation acts exclusively as trustee.

(b)(1) On January 1, 2020, fee simple title to perpetual lease lands shall vest in the current lessee of record, free and clear of the interest of a municipal corporation in the perpetual lease lands held in accordance with section 2401 of this title, unless prior to that date the legislative body of the municipal corporation votes in the affirmative to retain ownership of some or all of the perpetual lease lands within that municipal corporation.

(2) At any time, the legislative body of a municipal corporation may vote to relinquish its interest in some or all of the perpetual lease lands within that municipal corporation held in accordance with section 2401 of this title. Upon such a vote, fee simple title to perpetual lease lands shall vest in the current lessee of record.

(3) When fee simple title to perpetual lease land vests in the current lessee of record pursuant to this subsection, the land shall remain subject to any other encumbrances of record, including municipal encumbrances and easements.

(c) Nothing in this section shall prevent a municipal corporation that has retained its interest in perpetual lease land held in accordance with section 2401 of this title from later conveying the land in accordance with section 2406 of this title.

Sec. 2. 24 V.S.A. § 1061 is amended to read:

§ 1061. CONVEYANCE OF REAL ESTATE

* * *

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the legislative body of a town or village may authorize the conveyance of municipal real estate if the conveyance:

* * *

(3) Involves real estate used for housing or urban renewal projects under chapter 113 of this title.

(4) Involves lease land pursuant to chapter 65, subchapter 1 of this title.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 2, 2018, pages 578-580)

H. 895.

An act relating to legislative review of certain report requirements.

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

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

First: Immediately following the end of Sec. 4, by adding a reader assistance heading to read:

* * * Reports Requirements Modified * * *

Second: By adding a Sec. 4a to read:

Sec. 4a. 18 V.S.A. § 4803 is amended to read:

§ 4803. ALCOHOL AND DRUG ABUSE COUNCIL; CREATION; TERMS; PER DIEM

* * *

(g)(1) ~~Annually on or before November 15, the~~ The Council ~~shall~~ may submit a written report to the House Committee on Human Services and to the Senate Committee on Health and Welfare with its findings and any recommendations for legislative action.

* * *

Third: By adding a Sec. 4b to read:

Sec. 4b. 18 V.S.A. § 5208 is amended to read:

§ 5208. DEPARTMENT OF HEALTH; REPORT ON STATISTICS

* * *

(b) ~~In addition to the report required by subsection (a) of this section and notwithstanding the provisions of 2 V.S.A. § 20(d), beginning March 1, 2014 and annually thereafter, the Department shall report to the House Committees on Human Services and on Health Care, the Senate Committee on Health and Welfare, and the House and Senate Committees on Judiciary regarding the number of persons who died during the preceding calendar year from an overdose of a Schedule II, III, or IV controlled substance. The report shall list separately the number of deaths specifically related to opioids, including for each death whether an opioid antagonist was administered and whether it was administered by persons other than emergency medical personnel, firefighters, or law enforcement officers. Beginning in 2015, the report shall include similar data from prior years to allow for comparison. [Repealed.]~~

Fourth: By adding a Sec. 4c to read:

Sec. 4c. 19 V.S.A. § 42 is amended to read:

§ 42. REPORTS PRESERVED; CONSOLIDATED TRANSPORTATION
REPORT

* * *

(b) Annually, on or before January 15, the Agency shall submit a consolidated transportation system and activities report to the House and Senate Committees on Transportation. The report shall consist of:

(1) Financial and performance data of all public transit systems, as defined in 24 V.S.A. § 5088(6), that receive operating subsidies in any form from the State or federal government, including subsidies related to the Elders and Persons with Disabilities Transportation Program for service and capital equipment. This component of the report shall:

* * *

(C) show as a separate category financial and performance data on the Elders and Persons with Disabilities Transportation Program;

~~(D) describe any action the Agency has taken pursuant to contractual authority to terminate funding for routes or to request service changes for failure to meet performance standards.~~

(2) Data on pavement conditions of the State highway system ~~that, at a minimum, shall include a pavement condition index that rates the State highway system and the current and historic percentage of State highway pavement mileage that is rated in poor or very poor condition.~~

(3) A description of the conditions of bridges, culverts, and other structures on the State highway system and on town highways ~~and of the status of the accelerated bridge program.~~

* * *

(6) A summary of the statuses of aviation, rail, and public transit ~~projects programmed for construction during the previous calendar year programs.~~

* * *

(8) An overview of operations and maintenance activities, including winter maintenance statistics, ~~snow and ice control plans, and equipment performance measures.~~

(9) ~~Data on the miles of State highway paving completed during the previous construction season.~~

(10) A list of projects for which the construction phase was completed during the most recent construction season.

(11)(10) Such other information that the Secretary determines the Committees on Transportation need to perform their oversight role.

Fifth: By adding a Sec. 4d to read:

Sec. 4d. 2014 Acts and Resolves No. 179, Sec. E.306.2 is amended to read:

Sec. E.306.2 SUBSTANCE ABUSE TREATMENT SERVICES

(a) Program Objectives And Performance Measures:

* * *

~~(2) Thereafter, annually, on or before January 15, the Chief, Secretary, and Commissioners shall report to those Committees on the service delivery system's success in reaching the program objectives using the performance measure data collected for those services. [Repealed.]~~

* * *

Sixth: In Sec. 23, 18 V.S.A. § 9374, in subsection (h), in subdivision (4)(B), immediately following the phrase “The Board and the Department shall also present the information required by” by striking out “subsection (a) of this section” and inserting in lieu thereof the phrase this subsection (h)

(Committee vote: 4-0-1)

(For House amendments, see House Journal for February 27, 2018, page 453)

H. 904.

An act relating to miscellaneous agricultural subjects.

Reported favorably with recommendation of proposal of amendment by Senator Pollina for the Committee on Agriculture.

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

* * * Produce Inspection * * *

Sec. 1. 6 V.S.A. § 21(b) is amended to read:

(b) The Secretary shall have the authority to:

(1) respond to and remediate incidences of mass animal death, agricultural structure fires, or other emergencies on a farm in order to prevent a public health hazard;

(2) condemn, confiscate, or establish restrictions on the use, sale, or distribution of adulterated raw agricultural commodities or animal feed; and

(3) cooperate with the Department of Health and other State and federal agencies regarding:

(A) the prevention or remediation of the adulteration of raw agricultural commodities, food, or animal feed on farms; and

(B) application of the FDA Food Safety Modernization Act, ~~21 U.S.C. §§ 2201-2252~~ Pub. L. No. 111-353, to farms, farm products, or value-added products produced in the State.

Sec. 2. 6 V.S.A. § 852 is amended to read:

§ 852. ~~AUTHORITY; ENFORCEMENT~~

(a) The Secretary may enforce in the State the requirements of:

(1) ~~the rules adopted under the federal U.S. Food and Drug Administration Food Safety Modernization Act, Public Law No. 111-353, for standards for growing, harvesting, packing, and holding of produce for human consumption~~ Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112; and

(2) the rules adopted under this chapter.

(b) The Agency may collaborate with the ~~Vermont~~ Department of Health regarding application of the ~~federal Food Safety Modernization Act and the rules adopted thereunder~~ U.S. Food and Drug Administration Food Safety Modernization Act, Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112, and application of the rules adopted under this chapter.

(c) The Secretary shall carry out the provisions of this chapter using:

(1) monies appropriated to the Agency by the federal government for the purpose of administering the federal Food Safety Modernization Act and the rules adopted thereunder;

(2) monies appropriated to the Agency by the State for the purpose of administering this chapter; and

(3) other gifts, bequests, and donations by private entities for the purposes of administering this chapter.

Sec. 3. 6 V.S.A. § 853 is amended to read:

§ 853. FARM INSPECTIONS

(a)(1) The Secretary may inspect a produce farm during reasonable hours for the purposes of ensuring compliance with:

(A) the federal standards for growing, harvesting, packing, and holding of produce for human consumption, as adopted under 21 C.F.R. part 112; or

(B) the rules adopted under this chapter.

(2) This section shall not limit the Secretary's authority to respond to an emergency in order to prevent a public health hazard under section 21 of this title.

~~(b) After inspection, the Secretary may issue an inspection certificate that shall include the date and place of inspection along with any other pertinent facts that the Secretary may require.~~

~~(c) The Secretary may coordinate with other State agencies and organizations to carry out inspections at or near the same time on a given produce farm.~~

Sec. 4. 6 V.S.A. §§ 856 and 857 are added to read:

§ 856. ENFORCEMENT; CORRECTIVE ACTIONS

When the Secretary of Agriculture, Food and Markets determines that a person is violating the rules listed in section 852 of this title, the Secretary may issue a written warning that shall be served in person or by certified mail, return receipt requested. A warning issued under this section shall include:

(1) a description of the alleged violation;

(2) identification of this section;

(3) identification of the applicable rule violated; and

(4) the required corrective action that the person shall take to correct the violation.

§ 857. ENFORCEMENT; ADMINISTRATIVE ORDERS

(a) Notwithstanding the requirements of section 856 of this title, the Secretary at any time may pursue one or more of the following:

(1) issue a cease and desist order in accordance to a person the Secretary believes to be in violation of the rules listed in section 852 of this title;

(2) issue a verbal order or written administrative order to protect public health, including orders for the stop sale, recall, embargo, destruction, quarantine, and release of produce, when:

(A) the U.S. Food and Drug Administration requires immediate State action; or

(B) an alleged violation, activity, or farm practice presents an immediate threat to the public health or welfare;

(3) order mandatory corrective actions;

(4) take any action authorized under chapter 1 of this title;

(5) seek administrative or civil penalties in accordance with the requirements of section 15, 16, or 17 of this title.

(b) When the Secretary of Agriculture, Food and Markets issues a cease and desist order, written administrative order, or required corrective action under subsection (a) of this section, the Secretary shall provide the person subject to the order or corrective action with a statement that the order or corrective action is effective upon receipt and the person has 15 days from the date the order or corrective action was issued to request a hearing.

(c) If the Secretary of Agriculture, Food and Markets issues a verbal order under this section, the Secretary shall issue written notice to the person subject to the order within five days of the issuance of the verbal order. The written notice shall include a statement that the person has 15 days from the date the written notice was received to request a hearing.

(d) If a person who receives a cease and desist order, a verbal order, an administrative order, or a mandatory corrective action under this section does not request in writing a hearing within 15 days of receipt of the order or within 15 days of written notice for a verbal order, the person's right to a hearing is waived. Upon receipt of a written request for a hearing, the Secretary promptly shall set a date and time for a hearing. A request for a hearing on a cease and desist order, verbal order, or administrative order issued under this section shall not stay the order.

(e) A person aggrieved by a final action or decision of the Secretary under this section may appeal de novo to the Civil Division of the Superior Court within 30 days of the final decision of the Secretary.

* * * Livestock and Poultry Transport for Slaughter * * *

Sec. 5. 6 V.S.A. § 1461a(c) is amended to read:

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

* * * Farm and Forest Viability * * *

Sec. 6. 6 V.S.A. § 4710 is amended to read:

§ 4710. VERMONT FARM AND FOREST VIABILITY ENHANCEMENT PROGRAM

(a) The Vermont Farm and Forest Viability Enhancement Program is a voluntary program established in the Agency of Agriculture, Food and Markets to provide assistance to Vermont ~~farmers~~ farm, food, and forest-sector businesses to enhance the financial success and long-term viability of Vermont ~~agriculture~~ agricultural and forest sectors. In administering the Program, the Secretary shall:

(1) Collaborate with the Vermont Housing and Conservation Board, to administer the program with other State and federal agencies, private entities, and service groups to develop, coordinate, and provide technical and financial assistance to Vermont farmers farm, food, and forest-sector businesses.

(2) ~~Include teams of~~ Secure and coordinate experts to assist ~~farmers farm, food, and forest-sector business owners~~ farm, food, and forest-sector business owners in areas such as ~~assessing farm resources and potential business and financial planning, succession planning,~~ assessing farm resources and potential business and financial planning, succession planning, diversifying, adopting new technologies, improving product quality, developing value-added products, and lowering costs of production ~~for Vermont's agricultural sector. The teams~~ Providers may include ~~farm~~ business management specialists, University of Vermont Extension professionals, ~~veterinarians,~~ and other experts to deliver the ~~informational and technological educational and consulting~~ informational and technological educational and consulting services.

(3) Encourage agricultural or forest-sector economic development through investing in improvements to essential infrastructure and the promotion of ~~farm~~ businesses in Vermont these sectors.

(4) Enter into agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State and employ technical experts to carry out the purposes of this section.

(b) The ~~farm viability enhancement program~~ Farm and Forest Viability Program shall be assisted by an advisory board consisting of ~~ten~~ 12 members who shall include:

(1) The Secretary of Agriculture, Food and Markets. The Secretary shall serve as Chair of the Board.

(2) The Commissioner of Forests, Parks and Recreation or designee.

(3) The Commissioner of Economic Development or designee.

~~(3)~~(4) The Manager of the Vermont Economic Development Authority or designee.

~~(4)~~(5) The Director of University of Vermont Extension or designee.

~~(5)~~(6) The Executive Director of the Vermont Housing and Conservation Board or designee.

~~(6)~~(7) Four Vermont farmers agricultural or forest-sector business owners appointed by the Secretary of Agriculture, Food and Markets in consultation with the Vermont Housing and Conservation Board and the Commissioner of Forests, Parks and Recreation. ~~The four farmers shall serve two-year terms, except for the first year, two farmers chosen by the Chair shall serve one-year terms~~ At least two of the four business owners shall be agricultural-sector business owners.

~~(7)~~(8) ~~A person who has~~ Two people who have expertise in agricultural or forest-sector economics, financing, or business planning development appointed by the Secretary of Agriculture, Food and Markets in consultation with the Vermont Housing and Conservation Board and the Commissioner of Forests, Parks and Recreation.

(c) Members of the Advisory Board established in subsection (b) of this section other than ex officio members shall serve up to three two-year terms and shall be entitled to per diem expenses pursuant to 32 V.S.A. § 1010 for each day spent in the performance of their duties, and each such member shall be reimbursed ~~from the fund created by this section~~ for his or her reasonable expenses incurred in carrying out his or her duties under this section.

(d) In consultation with the Advisory Board, the Secretary of Agriculture, Food and Markets and the Vermont Housing and Conservation Board shall establish ~~grant criteria~~, performance goals, performance measures that demonstrate Program results, and other criteria to implement the Program. The ~~grant~~ criteria shall include at least the following requirements:

(1) ~~the application is developed in consultation with the producers who use or would use the Program and will address their needs;~~

(2) ~~the use of the funds available to the Program is likely to succeed in improving the economic viability of the farm and the farm's producers business;~~

~~(3)~~(2) ~~the producers are committed~~ enrollees demonstrate commitment to participating in the Program; and

~~(4)~~(3) an evaluation shall be completed by ~~enrolled farmers in conjunction with the teams~~ enrollees.

~~(e)~~(1) ~~The Farm Viability Enhancement Program Special Fund is established in the State Treasury and shall be administered by the Secretary of Agriculture, Food and Markets in accordance with the provisions of 32 V.S.A. chapter 7, subchapter 5, except that interest earned on the fund shall be retained in the Fund. The Fund shall be used only for the purpose of~~

~~implementing and effectuating the Farm Viability Enhancement Program established by this section. There shall be deposited in such Fund any monies appropriated by the General Assembly to, or received by, the Secretary of Agriculture, Food and Markets from any other source, public or private. The Fund shall be used only for the purposes of:~~

~~(A) providing funds for the Farm Viability Enhancement Program as established in this section;~~

~~(B) providing funds to enrolled farmers;~~

~~(C) providing funds to service providers for administrative expenses of the program; and~~

~~(D) leveraging other competitive public and private funds, grants, and contributions for the Farm Viability Enhancement Program.~~

~~(2) The Secretary of Agriculture, Food and Markets, the Commissioner of Forests, Parks and Recreation, and the Vermont Housing and Conservation Board, separately or cooperatively, may solicit federal funds, grants, and private contributions for the Farm and Forest Viability Enhancement Program, but any Vermont Housing and Conservation Board funds used for the Farm and Forest Viability Enhancement Program shall be administered in accordance with 10 V.S.A. § 312.~~

~~(f)(1) In collaboration with the Vermont Housing and Conservation Board, the Secretary of Agriculture, Food and Markets and the Commissioner of Forests, Parks and Recreation, the Vermont Housing and Conservation Board shall report in writing to the Senate Committee Committees on Agriculture and on Economic Development, Housing and General Affairs and the House Committee Committees on Agriculture and Forestry and on Commerce and Economic Development on or before January 31 of each year with a report on the activities and performance of the Farm and Forest Viability Enhancement Program. At a minimum, the report shall include an evaluation of the Program utilizing the performance goals and performance measures established in consultation with the Advisory Board under subsection (d) of this section. The report should assess potential demand for the Program over the succeeding three years.~~

~~(2) The Agency of Agriculture, Food and Markets and the Vermont Housing and Conservation Board shall describe in their annual budget submissions plans to develop adequate State, federal, and private funds to carry out this initiative.~~

~~(g)(1) The Agricultural Economic Development Special Account is established as a dedicated sub-account of the Vermont Farm Viability Enhancement Program Special Fund. There shall be deposited in such account~~

any monies:

~~(A) appropriated by the General Assembly to the account; and~~

~~(B) received by the State or the Secretary of Agriculture, Food and Markets from any source, public or private, for use for any of the purposes for which the account was established.~~

~~(2) The Fund shall only be used for the purposes of:~~

~~(A) encouraging private investment in the economic initiative; and~~

~~(B) providing incentives for technology businesses, determined by the Agency of Agriculture, Food and Markets to provide critical technological solutions for the growth of Vermont's agricultural economy.~~

~~(3) Assistance from the Agricultural Economic Development Special Account shall be available in order to produce agricultural energy, harvest biomass, convert biomass into energy, or enable installation and usage of wind, solar, or other technology that relies on a resource that is being consumed at a harvest rate at or below its natural regeneration rate pursuant to 30 V.S.A. § 8002(2), including:~~

~~(A) business and technical assistance for research and planning to aid a farmer or a group of farmers in developing business enterprises;~~

~~(B) cost-effective implementation assistance to leverage other sources of capital to assist a farmer or group of farmers in purchasing equipment, technology, or other assistance; and~~

~~(C) business, technical, and implementation assistance to persons that are not farmers for the development and implementation of technology or development of facilities designed to produce agricultural energy, harvest biomass, or convert biomass into energy, provided that the person is working in consultation with a Vermont farm, is creating an enterprise that utilizes Vermont resources, and provides Vermont a significant return on investment and meets any financial and technical criteria established by the Secretary by procedure. [Repealed.]~~

* * * Vermont Trails System; Act 250 * * *

Sec. 7. PURPOSE

The purpose of Sec. 8 of this act is to provide for consistency in the application of 10 V.S.A. chapter 151 (Act 250) to the construction and improvement of trails that are part of the Vermont Trails System under 10 V.S.A. chapter 20.

Sec. 8. 10 V.S.A. § 6001(3) is amended to read:

(3)(A) "Development" means each of the following:

* * *

(v) The construction of improvements on a tract of land involving more than 10 acres that is to be used for municipal, county, or State purposes. In computing the amount of land involved, land shall be included that is incident to the use such as lawns, parking areas, roadways, leaching fields and accessory buildings. Trails recognized as part of the Vermont Trails System under section 443 of this title shall be deemed to be for a State purpose.

* * *

(C) For the purposes of determining jurisdiction under subdivision ~~(3)~~(A) of this section subdivision (3), the following shall apply:

* * *

(vi) Vermont Trail System projects. In the case of a construction project for a trail recognized as part of the Vermont Trail System pursuant to section 443 of this title, the computation of land involved shall not include any existing or planned portion of the trail or of the Vermont Trail System unless that portion will be physically altered as part of the project and is on the same tract or tracts of land.

* * * Forest Products Industry; Act 250 * * *

Sec. 9. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF REVIEW

* * *

(g) When an application concerns the construction of improvements for one of the following, the application shall be processed as a minor application in accordance with subsections (b) through (e) of this section:

(1) a sawmill that produces one million board feet or less annually; or

(2) an operation that involves the primary processing of forest products of commercial value and that annually produces:

(A) 1,750 cords or less of firewood or cordwood; or

(B) 5,000 tons or less of bole wood, whole tree chips, or wood pellets.

* * * Forest Products Industry; Wood Energy; Supply * * *

Sec. 10. PUBLIC BUILDINGS; WOOD ENERGY; VERMONT SUPPLIERS; REPORT

(a) On or before December 15, 2018, the Commissioner of Buildings and General Services (Commissioner), in consultation with the Commissioner of Public Service, shall submit a written report and recommendation on the feasibility and impacts of requiring certain public buildings that use wood to produce heat or electricity, or both, to give preference to Vermont suppliers when making fuel supply purchases.

(b) As used in this section, “public building” has the same meaning as in 20 V.S.A. § 2730.

(c) The submission shall include the Commissioner’s specific recommendations as to each of the following categories of public buildings:

(1) schools owned, occupied, or administered by municipalities;

(2) other public buildings owned or occupied by the State of Vermont, counties, municipalities, or other public entities; and

(3) public buildings in Vermont that receive incentives or financing, or both, from the State of Vermont and are not within the category described in subdivisions (1) or (2) of this subsection.

(d) The Commissioner shall submit the report and recommendation to the Senate Committees on Agriculture and on Natural Resources and Energy and the House Committees on Agriculture and Forestry and on Energy and Technology.

* * * Forestland; Use Value Appraisal * * *

Sec. 11. 32 V.S.A. § 3756 is amended to read:

§ 3756. QUALIFICATION FOR USE VALUE APPRAISAL

(a) The owner of eligible agricultural land, farm buildings, or managed forestland shall be entitled to have eligible property appraised at its use value, provided the owner shall have applied to the Director on or before September 1 of the previous tax year, on a form approved by the Board and provided by the Director. A farmer, whose application has been accepted on or before December 31 by the Director of the Division of Property Valuation and Review of the Department of Taxes for enrollment for the use value program for the current tax year, shall be entitled to have eligible property appraised at its use value, if he or she was prevented from applying on or before September 1 of the previous year due to the severe illness of the farmer.

* * *

~~(i)(1) After providing 30 days’ notice to the owner, the Director shall remove from use value appraisal an entire parcel of managed forestland and notify the owner when the Commissioner of Forests, Parks and Recreation has~~

~~not received a required management activity report or has received an adverse inspection report, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the Director may delay removal from use value appraisal for a period of one year at a time to allow time to bring the parcel into conformance with the plan.~~

(2)(A) The Director shall remove from use value appraisal an entire parcel or parcels of agricultural land and farm buildings identified by the Secretary of Agriculture, Food and Markets as being used by a person:

(i)(A) found, after administrative hearing, or contested judicial hearing or motion, to be in violation of water quality requirements established under 6 V.S.A. chapter 215, or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215; or

(ii)(B) who is not in compliance with the terms of an administrative or court order issued under 6 V.S.A. chapter 215, subchapter 10 to remedy a violation of the requirements of 6 V.S.A. chapter 215 or any rules adopted or any permit or certification issued under 6 V.S.A. chapter 215.

(B)(2) The Director shall notify the owner that agricultural land or a farm building has been removed from use value appraisal by mailing notification of removal to the owner or operator's last and usual place of abode. After removal of agricultural land or a farm building from use value appraisal under this section, the Director shall not consider a new application for use value appraisal for the agricultural land or farm building until the Secretary of Agriculture, Food and Markets submits to the Director a certification that the owner or operator of the agricultural land or farm building is complying with the water quality requirements of 6 V.S.A. chapter 215 or an order issued under 6 V.S.A. chapter 215. After submission of a certification by the Secretary of Agriculture, Food and Markets, an owner or operator shall be eligible to apply for enrollment of the agricultural land or farm building according to the requirements of this section.

* * *

(k)(1) As used in this subsection:

(A) “Contiguous” means touching, bordering, or adjoining along the boundary of a property. Properties that would be contiguous if except for separation by a roadway, railroad, or other public easement shall be considered contiguous.

(B) “Parcel” shall have the same meaning as in section 4152 of this title.

(2) After providing 30 days' notice to the owner, the Director shall remove from use value appraisal an entire parcel of contiguous managed

forestland and notify the owner when the Commissioner of Forests, Parks and Recreation has not received a required management activity report or has received an adverse inspection report on greater than one percent of enrolled forestland on a parcel, unless the lack of conformance consists solely of the failure to make prescribed planned cutting. In that case, the Director may delay removal from use value appraisal for a period of one year at a time to allow opportunity to bring the parcel into conformance with the plan. When the Director receives an adverse inspection report documenting violations on less than or equal to one percent of forestland on a parcel, the forestland enrolled in the municipality in which the violation occurred shall be removed from use value appraisal, unless the lack of conformance consists solely of the failure to make a prescribed planned cutting under a forest management plan. If a violation consists solely of failure to make a prescribed planned cutting, the Director may delay removal of a parcel of forestland from use value appraisal for a period of one year at a time to allow the owner of the parcel opportunity to bring the parcel into conformance with its forest management plan.

Sec. 12. 32 V.S.A. § 3755(d) is amended to read:

(d) After managed forestland has been removed from use value appraisal due to an adverse inspection report under ~~subdivision 3756(i)(1)~~ subsection 3756(k) of this title, a new application for use value appraisal shall not be considered for a period of five years, and then shall be approved by the Department of Forests, Parks and Recreation only if a compliance report has been filed with the new application, certifying that appropriate measures have been taken to bring the parcel into compliance with minimum acceptable standards for forest or conservation management.

* * * Energy Efficiency; Efficiency Charge * * *

Sec. 13. 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

* * *

(d) Energy efficiency.

* * *

(3) Energy efficiency charge; regulated fuels. In addition to its existing authority, the Commission may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title, with due consideration to the State's energy policy under section 202a of this title and to its energy and economic policy interests under section 218e of this title to maintain and enhance the State's economic vitality. The charge shall be known as the energy efficiency

charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the Commission and deposited into the Electric Efficiency Fund. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the Commission. This notice shall include, at a minimum, a toll-free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge.

* * *

(B) The charge established by the Commission pursuant to this subdivision (3) shall be in an amount determined by the Commission by rule or order that is consistent with the principles of least-cost integrated planning as defined in section 218c of this title.

(i) As circumstances and programs evolve, the amount of the charge shall be reviewed for unrealized energy efficiency potential and shall be adjusted as necessary in order to realize all reasonably available, cost-effective energy efficiency savings.

(ii) In setting the amount of the charge and its allocation, the Commission shall determine an appropriate balance among the following objectives; provided, however, that particular emphasis shall be accorded to the first four of these objectives: reducing the size of future power purchases; reducing the generation of greenhouse gases; limiting the need to upgrade the State's transmission and distribution infrastructure; minimizing the costs of electricity; reducing Vermont's total energy demand, consumption, and expenditures; providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in efficiency and conservation programs; and targeting efficiency and conservation efforts to locations, markets, or customers where they may provide the greatest value.

(iii) The Commission, by rule or order, shall establish a process by which a customer ~~who pays an average annual energy efficiency charge under this subdivision (3) of at least \$5,000.00~~ may apply to the Commission to self-administer energy efficiency through the use of an energy savings account which shall contain a percentage of the customer's energy efficiency charge payments as determined by the Commission. The remaining portion of the charge shall be used for systemwide energy benefits. The Commission in its rules or order shall establish criteria for approval of these applications. A customer shall be eligible for an energy savings account if one of the following applies:

(I) The customer pays an average annual energy efficiency charge under this subdivision (3)(B)(iii) of at least \$5,000.00.

(II) The served premises of the customer are located in an industrial park in a rural area. As used in this subdivision (II):

(aa) "Industrial park" means an area of land permitted as an industrial park under 10 V.S.A. chapter 151 or under 24 V.S.A. chapter 117, or under both.

(bb) "Rural area" means a county of the State designated as "rural" or "mostly rural" by the U.S. Census Bureau in its most recent decennial census.

* * *

(e) Thermal energy and process fuel efficiency funding.

* * *

(2) If a program combines regulated fuel efficiency services with unregulated fuel efficiency services supported by funds under this section, the Commission shall allocate the costs of the program among the funding sources for the regulated and unregulated fuel sectors in proportion to the benefits provided to each sector.

* * *

(f) Goals and criteria; all energy efficiency programs. With respect to all energy efficiency programs approved under this section, the Commission shall:

(1) Ensure that all retail consumers, regardless of retail electricity, gas, or heating or process fuel provider or of household income, will have an opportunity to participate in and benefit from a comprehensive set of cost-effective energy efficiency programs and initiatives designed to overcome barriers to participation. To further this goal, the Commission shall require that a percentage of energy efficiency funds be used to deliver energy efficiency programs to customers with household incomes below 80 percent of the statewide median income, as defined by the U.S. Department of Housing and Urban Development, and the requirements of subdivision (e)(2) of this section shall not apply to such delivery.

* * *

* * * Sales and Use Tax; Advanced Wood Boilers * * *

Sec. 14. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

Unless the context in which they occur requires otherwise, the following terms when used in this chapter mean:

* * *

(54) “Noncollecting vendor” means a vendor that sells tangible personal property or services to purchasers who are not exempt from the sales tax under this chapter, but that does not collect the Vermont sales tax.

(55) “Advanced wood boiler” means a boiler or furnace:

(A) installed as a primary central heating system;

(B) rated as high-efficiency, meaning a higher heating value or gross calorific value of 85 percent or more;

(C) containing at least one week fuel-storage, automated startup and shutdown, and fuel feed; and

(D) meeting other efficiency and air emissions standards established by the Department of Environmental Conservation.

Sec. 15. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(52) Advanced wood boilers, as defined in section 9701 of this title, whether for residential or commercial use.

Sec. 16. 32 V.S.A. § 9706(11) is added to read:

(11) The statutory purpose of the exemption for advanced wood boilers in subdivision 9741(52) of this title is to promote the forest products industry in Vermont by encouraging the purchase of modern wood heating systems.

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

(a) This section and Secs. 1–4 (produce inspection), 5 (livestock transfer), 7–8 (Act 250 trails designation), and 9 (Act 250 minor application; small sawmills) shall take effect on passage.

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

(Committee vote: 5-0-0)

(No House amendments)

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

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

* * * Produce Inspection * * *

Sec. 1. 6 V.S.A. § 21(b) is amended to read:

(b) The Secretary shall have the authority to:

(1) respond to and remediate incidences of mass animal death, agricultural structure fires, or other emergencies on a farm in order to prevent a public health hazard;

(2) condemn, confiscate, or establish restrictions on the use, sale, or distribution of adulterated raw agricultural commodities or animal feed; and

(3) cooperate with the Department of Health and other State and federal agencies regarding:

(A) the prevention or remediation of the adulteration of raw agricultural commodities, food, or animal feed on farms; and

(B) application of the FDA Food Safety Modernization Act, 21 U.S.C. §§ 2201-2252 Pub. L. No. 111-353, to farms, farm products, or value-added products produced in the State.

Sec. 2. 6 V.S.A. § 852 is amended to read:

§ 852. ~~AUTHORITY; ENFORCEMENT~~

(a) The Secretary may enforce in the State the requirements of:

(1) the rules adopted under the ~~federal U.S. Food and Drug Administration Food Safety Modernization Act, Public Law No. 111-353, for standards for growing, harvesting, packing, and holding of produce for human consumption~~ Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112; and

(2) the rules adopted under this chapter.

(b) The Agency may collaborate with the ~~Vermont~~ Department of Health regarding application of the ~~federal Food Safety Modernization Act and the rules adopted thereunder~~ U.S. Food and Drug Administration Food Safety Modernization Act, Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption, 21 C.F.R. part 112, and application of the rules adopted under this chapter.

(c) The Secretary shall carry out the provisions of this chapter using:

(1) monies appropriated to the Agency by the federal government for the purpose of administering the federal Food Safety Modernization Act and the rules adopted thereunder;

(2) monies appropriated to the Agency by the State for the purpose of administering this chapter; and

(3) other gifts, bequests, and donations by private entities for the purposes of administering this chapter.

Sec. 3. 6 V.S.A. § 853 is amended to read:

§ 853. FARM INSPECTIONS

(a)(1) The Secretary may inspect a produce farm during reasonable hours for the purposes of ensuring compliance with:

(A) the federal standards for growing, harvesting, packing, and holding of produce for human consumption, as adopted under 21 C.F.R. part 112; or

(B) the rules adopted under this chapter.

(2) This section shall not limit the Secretary's authority to respond to an emergency in order to prevent a public health hazard under section 21 of this title.

~~(b) After inspection, the Secretary may issue an inspection certificate that shall include the date and place of inspection along with any other pertinent facts that the Secretary may require.~~

(e) The Secretary may coordinate with other State agencies and organizations to carry out inspections at or near the same time on a given produce farm.

Sec. 4. 6 V.S.A. §§ 856 and 857 are added to read:

§ 856. ENFORCEMENT; CORRECTIVE ACTIONS

When the Secretary of Agriculture, Food and Markets determines that a person is violating the rules listed in section 852 of this title, the Secretary may issue a written warning that shall be served in person or by certified mail, return receipt requested. A warning issued under this section shall include:

(1) a description of the alleged violation;

(2) identification of this section;

(3) identification of the applicable rule violated; and

(4) the required corrective action that the person shall take to correct the violation.

§ 857. ENFORCEMENT; ADMINISTRATIVE ORDERS

(a) Notwithstanding the requirements of section 856 of this title, the Secretary at any time may pursue one or more of the following:

(1) issue a cease and desist order in accordance to a person the Secretary believes to be in violation of the rules listed in section 852 of this title;

(2) issue a verbal order or written administrative order to protect public health, including orders for the stop sale, recall, embargo, destruction, quarantine, and release of produce, when:

(A) the U.S. Food and Drug Administration requires immediate State action; or

(B) an alleged violation, activity, or farm practice presents an immediate threat to the public health or welfare;

(3) order mandatory corrective actions;

(4) take any action authorized under chapter 1 of this title;

(5) seek administrative or civil penalties in accordance with the requirements of section 15, 16, or 17 of this title.

(b) When the Secretary of Agriculture, Food and Markets issues a cease and desist order, written administrative order, or required corrective action under subsection (a) of this section, the Secretary shall provide the person subject to the order or corrective action with a statement that the order or corrective action is effective upon receipt and the person has 15 days from the date the order or corrective action was issued to request a hearing.

(c) If the Secretary of Agriculture, Food and Markets issues a verbal order under this section, the Secretary shall issue written notice to the person subject to the order within five days of the issuance of the verbal order. The written notice shall include a statement that the person has 15 days from the date the written notice was received to request a hearing.

(d) If a person who receives a cease and desist order, a verbal order, an administrative order, or a mandatory corrective action under this section does not request in writing a hearing within 15 days of receipt of the order or within 15 days of written notice for a verbal order, the person's right to a hearing is waived. Upon receipt of a written request for a hearing, the Secretary promptly shall set a date and time for a hearing. A request for a hearing on a cease and desist order, verbal order, or administrative order issued under this section shall not stay the order.

(e) A person aggrieved by a final action or decision of the Secretary under this section may appeal de novo to the Civil Division of the Superior Court within 30 days of the final decision of the Secretary.

* * * Livestock and Poultry Transport for Slaughter * * *

Sec. 5. 6 V.S.A. § 1461a(c) is amended to read:

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

* * * Farm and Forest Viability * * *

Sec. 6. 6 V.S.A. § 4710 is amended to read:

§ 4710. VERMONT FARM AND FOREST VIABILITY ~~ENHANCEMENT~~ PROGRAM

(a) The Vermont Farm and Forest Viability ~~Enhancement~~ Program is a voluntary program established in the Agency of Agriculture, Food and Markets to provide assistance to Vermont ~~farmers~~ farm, food, and forest-sector businesses to enhance the financial success and long-term viability of Vermont ~~agriculture~~ agricultural and forest sectors. In administering the Program, the Secretary shall:

(1) Collaborate with the Vermont Housing and Conservation Board, to administer the program with other State and federal agencies, private entities, and service groups to develop, coordinate, and provide technical and financial assistance to Vermont ~~farmers~~ farm, food, and forest-sector businesses.

(2) ~~Include teams of~~ Secure and coordinate experts to assist ~~farmers~~ farm, food, and forest-sector business owners in areas such as ~~assessing farm resources and potential~~ business and financial planning, succession planning, diversifying, adopting new technologies, improving product quality, developing value-added products, and lowering costs of production for Vermont's agricultural sector. ~~The teams~~ Providers may include ~~farm~~ business management specialists, University of Vermont Extension professionals, ~~veterinarians,~~ and other experts to deliver the ~~informational and technological educational and consulting~~ services.

(3) Encourage agricultural or forest-sector economic development through investing in improvements to essential infrastructure and the promotion of ~~farm~~ businesses in ~~Vermont~~ these sectors.

(4) Enter into agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State and

employ technical experts to carry out the purposes of this section.

(b) ~~The farm viability enhancement program~~ Farm and Forest Viability Program shall be assisted by an advisory board consisting of ~~ten~~ 12 members who shall include:

(1) The Secretary of Agriculture, Food and Markets. The Secretary shall serve as Chair of the Board.

(2) The Commissioner of Forests, Parks and Recreation or designee.

(3) The Commissioner of Economic Development or designee.

~~(3)~~(4) The Manager of the Vermont Economic Development Authority or designee.

~~(4)~~(5) The Director of University of Vermont Extension or designee.

~~(5)~~(6) The Executive Director of the Vermont Housing and Conservation Board or designee.

~~(6)~~(7) Four Vermont farmers agricultural or forest-sector business owners appointed by the Secretary of Agriculture, Food and Markets in consultation with the Vermont Housing and Conservation Board and the Commissioner of Forests, Parks and Recreation. The four farmers shall serve two-year terms, except for the first year, two farmers chosen by the Chair shall serve one-year terms. At least two of the four business owners shall be agricultural-sector business owners.

~~(7)~~(8) A person who has Two people who have expertise in agricultural or forest-sector economics, financing, or business planning development appointed by the Secretary of Agriculture, Food and Markets in consultation with the Vermont Housing and Conservation Board and the Commissioner of Forests, Parks and Recreation.

(c) Members of the Advisory Board established in subsection (b) of this section other than ex officio members shall serve up to three two-year terms and shall be entitled to per diem expenses pursuant to 32 V.S.A. § 1010 for each day spent in the performance of their duties, and each such member shall be reimbursed ~~from the fund created by this section~~ for his or her reasonable expenses incurred in carrying out his or her duties under this section.

(d) In consultation with the Advisory Board, the Secretary of Agriculture, Food and Markets and the Vermont Housing and Conservation Board shall establish ~~grant criteria~~, performance goals, performance measures that demonstrate Program results, and other criteria to implement the Program. The ~~grant~~ criteria shall include at least the following requirements:

(1) ~~the application is developed in consultation with the producers who~~

~~use or would use the Program and will address their needs;~~

~~(2) the use of the funds available to the Program is likely to succeed in improving the economic viability of the farm and the farm's producers business;~~

~~(3)(2) the producers are committed enrollees demonstrate commitment to participating in the Program; and~~

~~(4)(3) an evaluation shall be completed by enrolled farmers in conjunction with the teams enrollees.~~

~~(e)(1) The Farm Viability Enhancement Program Special Fund is established in the State Treasury and shall be administered by the Secretary of Agriculture, Food and Markets in accordance with the provisions of 32 V.S.A. chapter 7, subchapter 5, except that interest earned on the fund shall be retained in the Fund. The Fund shall be used only for the purpose of implementing and effectuating the Farm Viability Enhancement Program established by this section. There shall be deposited in such Fund any monies appropriated by the General Assembly to, or received by, the Secretary of Agriculture, Food and Markets from any other source, public or private. The Fund shall be used only for the purposes of:~~

~~(A) providing funds for the Farm Viability Enhancement Program as established in this section;~~

~~(B) providing funds to enrolled farmers;~~

~~(C) providing funds to service providers for administrative expenses of the program; and~~

~~(D) leveraging other competitive public and private funds, grants, and contributions for the Farm Viability Enhancement Program.~~

~~(2) The Secretary of Agriculture, Food and Markets, the Commissioner of Forests, Parks and Recreation, and the Vermont Housing and Conservation Board, separately or cooperatively, may solicit federal funds, grants, and private contributions for the Farm and Forest Viability Enhancement Program, but any Vermont Housing and Conservation Board funds used for the Farm and Forest Viability Enhancement Program shall be administered in accordance with 10 V.S.A. § 312.~~

~~(f)(1) In collaboration with the Vermont Housing and Conservation Board, the Secretary of Agriculture, Food and Markets and the Commissioner of Forests, Parks and Recreation, the Vermont Housing and Conservation Board shall report in writing to the Senate Committee Committees on Agriculture and on Economic Development, Housing and General Affairs and the House Committee Committees on Agriculture and Forestry and on Commerce and~~

Economic Development on or before January 31 of each year with a report on the activities and performance of the Farm and Forest Viability Enhancement Program. At a minimum, the report shall include an evaluation of the Program utilizing the performance goals and performance measures established in consultation with the Advisory Board under subsection (d) of this section. The report should assess potential demand for the Program over the succeeding three years.

~~(2) The Agency of Agriculture, Food and Markets and the Vermont Housing and Conservation Board shall describe in their annual budget submissions plans to develop adequate State, federal, and private funds to carry out this initiative.~~

~~(g)(1) The Agricultural Economic Development Special Account is established as a dedicated sub-account of the Vermont Farm Viability Enhancement Program Special Fund. There shall be deposited in such account any monies:~~

~~(A) appropriated by the General Assembly to the account; and~~

~~(B) received by the State or the Secretary of Agriculture, Food and Markets from any source, public or private, for use for any of the purposes for which the account was established.~~

~~(2) The Fund shall only be used for the purposes of:~~

~~(A) encouraging private investment in the economic initiative; and~~

~~(B) providing incentives for technology businesses, determined by the Agency of Agriculture, Food and Markets to provide critical technological solutions for the growth of Vermont's agricultural economy.~~

~~(3) Assistance from the Agricultural Economic Development Special Account shall be available in order to produce agricultural energy, harvest biomass, convert biomass into energy, or enable installation and usage of wind, solar, or other technology that relies on a resource that is being consumed at a harvest rate at or below its natural regeneration rate pursuant to 30 V.S.A. § 8002(2), including:~~

~~(A) business and technical assistance for research and planning to aid a farmer or a group of farmers in developing business enterprises;~~

~~(B) cost-effective implementation assistance to leverage other sources of capital to assist a farmer or group of farmers in purchasing equipment, technology, or other assistance; and~~

~~(C) business, technical, and implementation assistance to persons that are not farmers for the development and implementation of technology or development of facilities designed to produce agricultural energy, harvest~~

~~biomass, or convert biomass into energy, provided that the person is working in consultation with a Vermont farm, is creating an enterprise that utilizes Vermont resources, and provides Vermont a significant return on investment and meets any financial and technical criteria established by the Secretary by procedure. [Repealed.]~~

* * * Nutrient Management Plans * * *

Sec. 7. 6 V.S.A. § 4817 is added to read:

§ 4817. NUTRIENT MANAGEMENT PLAN; REPORTING

Annually, an owner or operator of a large farm, medium farm, or small farm subject to small farm certification shall submit to the Secretary a digital or electronic copy of the nutrient management plan required under this chapter. A nutrient management plan submitted by an owner or operator of a farm under this section shall identify the known location of outfalls of subsurface tile drainage installed on the farm.

Sec. 8. SCHEDULE; SUBMISSION OF NUTRIENT MANAGEMENT PLAN

An owner or operator of a farm subject to the nutrient management plan reporting requirements of 6 V.S.A. § 4817 shall initiate submission of the nutrient management plan according to the following schedule:

(1) the owner or operator of a large farm, beginning on February 15, 2019 and annually thereafter;

(2) the owner or operator of a medium farm, beginning on April 30, 2019 and annually thereafter; and

(3) the owner or operator of a small farm subject to certification, beginning on January 31, 2021 and annually thereafter.

* * * Forest Habitat * * *

Sec. 9. 10 V.S.A. § 6001(38)–(42) are added to read:

(38) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use that is mapped as an interior forest block within the 2016 interior forest block dataset created as part of resource mapping under section 127 of this title, as that dataset may be updated pursuant to procedures developed in accordance with that section. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover, and improvements constructed for farming, logging, or forestry purposes.

(39) “Fragmentation” means the division or conversion of a forest block or habitat connector by the separation of a parcel into two or more parcels; the

construction, conversion, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill; and any change in the use of any building or other structure, or land, or extension of use of land. However, fragmentation does not include the division or conversion of a forest block or habitat connector by a recreational trail or by improvements constructed for farming, logging, or forestry purposes below the elevation of 2,500 feet.

(40) “Habitat” means the physical and biological environment in which a particular species of plant or animal lives.

(41) “Habitat connector” refers to land or water, or both, that links patches of habitat within a landscape, allowing the movement, migration, and dispersal of animals and plants and the functioning of ecological processes. A habitat connector may include recreational trails and improvements constructed for farming, logging, or forestry purposes.

(42) As used in subdivisions (38), (39), and (41) of this section, “recreational trail” means a corridor that is not paved, and that is used for recreational purposes, including hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, and horseback riding.

Sec. 10. 10 V.S.A. § 6086 is amended to read:

§ 6086. ISSUANCE OF PERMIT; CONDITIONS AND CRITERIA

(a) Before granting a permit, the District Commission shall find that the subdivision or development:

* * *

(8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, or rare and irreplaceable natural areas.

(A) Necessary wildlife habitat and endangered species. A permit will not be granted if it is demonstrated by any party opposing the applicant that a development or subdivision will destroy or significantly imperil necessary wildlife habitat or any endangered species; and

(i) the economic, social, cultural, recreational, or other benefit to the public from the development or subdivision will not outweigh the economic, environmental, or recreational loss to the public from the destruction or imperilment of the habitat or species; or

(ii) all feasible and reasonable means of preventing or lessening the destruction, diminution, or imperilment of the habitat or species have not been or will not continue to be applied; or

(iii) a reasonably acceptable alternative site is owned or controlled

by the applicant which would allow the development or subdivision to fulfill its intended purpose.

(B) Forest blocks.

(i) A permit will not be granted for a development or subdivision within or partially within a forest block unless the applicant demonstrates that:

(I) the development or subdivision will avoid fragmentation of the forest block through the design of the project or the location of project improvements, or both;

(II) it is not feasible to avoid fragmentation of the forest block and the design of the development or subdivision minimizes fragmentation of the forest block; or

(III) it is not feasible to avoid or minimize fragmentation of the forest block and the applicant will mitigate the fragmentation in accordance with section 6094 of this title.

(ii) Methods for avoiding or minimizing the fragmentation of a forest block may include:

(I) Locating buildings and other improvements and operating the project in a manner that avoids or minimizes incursion into and disturbance of the forest block, including clustering of buildings and associated improvements.

(II) Designing roads, driveways, and utilities that serve the development or subdivision to avoid or minimize fragmentation of the forest block. Such design may be accomplished by following or sharing existing features on the land such as roads, tree lines, stonewalls, and fence lines.

(C) Habitat connectors.

(i) A permit will not be granted for a development or subdivision unless the applicant demonstrates that:

(I) the development or subdivision will avoid fragmentation of a habitat connector through the design of the project or the location of project improvements, or both;

(II) it is not feasible to avoid fragmentation of the habitat connector and the design of the development or subdivision minimizes fragmentation of the connector; or

(III) it is not feasible to avoid or minimize fragmentation of the habitat connector and the applicant will mitigate the fragmentation in accordance with section 6094 of this title.

(ii) Methods for avoiding or minimizing the fragmentation of a habitat connector may include:

(I) locating buildings and other improvements at the farthest feasible location from the center of the connector;

(II) designing the location of buildings and other improvements to leave the greatest contiguous portion of the area undisturbed in order to facilitate wildlife travel through the connector; or

(III) when there is no feasible site for construction of buildings and other improvements outside the connector, designing the buildings and improvements to facilitate the continued viability of the connector for use by wildlife.

* * *

Sec. 11. 10 V.S.A. § 6088 is amended to read:

§ 6088. BURDEN OF PROOF

(a) The burden shall be on the applicant with respect to subdivisions 6086(a)(1), (2), (3), (4), (8)(B) and (C), (9), and (10) of this title.

(b) The Except for subdivisions 6086(a)(8)(B) and (C) of this title, the burden shall be on any party opposing the applicant with respect to subdivisions 6086(a)(5) through (8) of this title to show an unreasonable or adverse effect.

Sec. 12. 10 V.S.A. § 6094 is added to read:

§ 6094. MITIGATION OF FOREST BLOCKS AND HABITAT CONNECTORS

(a) A District Commission may consider a proposal to mitigate, through compensation, the fragmentation of a forest block or habitat connector if the applicant demonstrates that it is not feasible to avoid or minimize fragmentation of the block or connector in accordance with the respective requirements of subdivision 6086(a)(8)(B) or (C) of this title. A District Commission may approve the proposal only if it finds that the proposal will meet the requirements of the rules adopted under this section and will preserve a forest block or habitat connector of similar quality and character to the block or connector affected by the development or subdivision.

(b) The Natural Resources Board, in consultation with the Secretary of Natural Resources, shall adopt rules governing mitigation under this section.

(1) The rules shall state the acreage ratio of forest block or habitat connector to be preserved in relation to the block or connector affected by the development or subdivision.

(2) Compensation measures to be allowed under the rules shall be based on the ratio of land developed pursuant to subdivision (1) of this subsection and shall include:

(A) Preservation of a forest block or habitat connector of similar quality and character to the block or connector that the development or subdivision will affect.

(B) Deposit of an offsite mitigation fee into the Vermont Housing and Conservation Trust Fund under section 312 of this title.

(i) This mitigation fee shall be derived as follows:

(I) Determine the number of acres of forest block or habitat connector, or both, affected by the proposed development or subdivision.

(II) Multiply this number of affected acres by the ratio set forth in the rules.

(III) Multiply the resulting product by a “price-per-acre” value, which shall be based on the amount that the Commissioner of Forests, Parks and Recreation determines to be the recent, per-acre cost to acquire conservation easements for forest blocks and habitat connectors of similar quality and character in the same geographic region as the proposed development or subdivision.

(ii) The Vermont Housing Conservation Board shall use such a fee to preserve a forest block or habitat connector of similar quality and character to the block or connector affected by the development or subdivision.

(C) Such other compensation measures as the rules may authorize.

(c) The mitigation of impact on a forest block or a habitat connector, or both, shall be structured also to mitigate the impacts, under the criteria of subsection 6086(a) of this title other than subdivisions (8)(B) and (C), to land or resources within the block or connector.

(d) All forest blocks and habitat connectors preserved pursuant to this section shall be protected by permanent conservation easements that grant development rights and include conservation restrictions and are conveyed to a qualified holder, as defined in section 821 of this title, with the ability to monitor and enforce easements in perpetuity.

Sec. 13. RULE ADOPTION: SCHEDULE; GUIDANCE

(a) Rulemaking.

(1) On or before September 1, 2018, the Natural Resources Board (NRB) shall file proposed rules with the Secretary of State to implement Sec. 12 of this act, 10 V.S.A. § 6094.

(2) On or before March 1, 2019, the NRB shall finally adopt rules to implement Sec. 12 of this act, 10 V.S.A. § 6094, unless such deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

(b) Guidance.

(1) On or before May 1, 2019, the NRB shall develop guidance for the District Commissions, applicants, and other affected persons with respect to:

(A) the forest block and habitat connector criteria adopted under Sec. 10 of this act, 10 V.S.A. § 6086(a)(8)(B) and (C); and

(B) designing recreational trails, subdivisions, and developments to minimize impacts in a manner that complies with those criteria.

(2) The NRB shall develop this guidance in collaboration with the Agency of Natural Resources (ANR). As part of developing this guidance, the NRB shall solicit input from affected parties and the public, including planners, developers, municipalities, environmental advocacy organizations, regional planning commissions, regional development corporations, and business advocacy organizations such as State and regional chambers of commerce.

Sec. 14. 10 V.S.A. § 127 is amended to read:

§ 127. RESOURCE MAPPING

~~(a) On or before January 15, 2013, the~~ The Secretary of Natural Resources (Secretary) shall complete and maintain resource mapping based on the Geographic Information System (GIS) or other technology. The mapping shall identify natural resources throughout the State, including forest blocks, that may be relevant to the consideration of energy projects and projects subject to chapter 151 of this title. The Center for Geographic Information shall be available to provide assistance to the Secretary in carrying out the GIS-based resource mapping.

~~(b) The Secretary of Natural Resources shall consider the GIS-based resource maps developed under subsection (a) of this section when providing evidence and recommendations to the Public Service Board Utility Commission under 30 V.S.A. § 248(b)(5) and when commenting on or providing recommendations under chapter 151 of this title to District Commissions on other projects.~~

(c) The Secretary shall establish and maintain written procedures that include a process and science-based criteria for updating resource maps developed under subsection (a) of this section. Before establishing or revising these procedures, the Secretary shall provide an opportunity for affected

parties and the public to submit relevant information and recommendations.

Sec. 15. 24 V.S.A. § 4303 is amended to read:

§ 4303. DEFINITIONS

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

* * *

(34) As used in subdivisions 4348a(a)(2) and 4382(a)(2) of this title:

(A) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover, and uses exempt from regulation under subsection 4413(d) of this title.

~~(35)~~(B) “Forest fragmentation” means the division or conversion of a forest block by land development other than by a recreational trail or use exempt from regulation under subsection 4413(d) of this title.

~~(36)~~(C) “Habitat connector” means land or water, or both, that links patches of wildlife habitat within a landscape, allowing the movement, migration, and dispersal of animals and plants and the functioning of ecological processes. A habitat connector may include recreational trails and uses exempt from regulation under subsection 4413(d) of this title. In a plan or other document issued pursuant to this chapter, a municipality or regional plan commission may use the phrase “wildlife corridor” in lieu of “habitat connector.”

~~(37)~~(35) “Recreational trail” ~~As used in subdivision (34) of this section,~~ “recreational trail” means a corridor that is not paved and that is used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar recreational activity.

* * * Forest Products Industry; Act 250 * * *

Sec. 16. 10 V.S.A. § 6084 is amended to read:

§ 6084. NOTICE OF APPLICATION; HEARINGS; COMMENCEMENT OF REVIEW

* * *

(g) When an application concerns the construction of improvements for one of the following, the application shall be processed as a minor application in accordance with subsections (b) through (e) of this section:

(1) a sawmill that produces three and one-half million board feet or less annually; or

(2) an operation that involves the primary processing of forest products of commercial value and that annually produces:

(A) 3,500 cords or less of firewood or cordwood; or

(B) 10,000 tons or less of bole wood, whole tree chips, or wood pellets.

* * * Report; Harvest Notification; Trip Tickets * * *

Sec. 17. REPORT; HARVEST NOTIFICATION; TRIP TICKETS

(a) On or before January 15, 2019, the Commissioner of Forests, Parks and Recreation shall submit a written report with analysis and recommendations on each of the following:

(1) whether to require a landowner on whose property timber harvest is to take place to file a harvest notification with the State of Vermont;

(2) whether to require trip tickets for loads of forest products when transported from the location of a timber harvest to the location of first measurement or when transported after first measurement, or both; and

(3) whether to require sawmills and other operations that involve the primary processing of forest products of commercial value to report annually the quantity of forest products processed.

(b) For each potential requirement described in subsection (a) of this section, the Commissioner shall include recommendations on how to implement the requirement, should the General Assembly decide to adopt the requirement.

(c) Prior to submitting the report, the Commissioner shall offer an opportunity for the public to submit relevant information and recommendations.

(d) The Commissioner shall submit the report to the House Committees on Agriculture and Forest Products and on Natural Resources, Fish, and Wildlife and the Senate Committees on Agriculture and on Natural Resources and Energy.

(e) In preparing the report, the Commissioner may use and build on prior relevant reports and submissions to the General Assembly.

* * * Forest Products Industry; Wood Energy; Supply * * *

Sec. 18. PUBLIC BUILDINGS; WOOD ENERGY; VERMONT SUPPLIERS; REPORT

(a) On or before December 15, 2018, the Commissioner of Buildings and General Services (Commissioner), in consultation with the Commissioner of

Public Service, shall submit a written report and recommendation on the feasibility and impacts of requiring certain public buildings that use wood to produce heat or electricity, or both, to give preference to Vermont suppliers when making fuel supply purchases.

(b) As used in this section, “public building” has the same meaning as in 20 V.S.A. § 2730.

(c) The submission shall include the Commissioner’s specific recommendations as to each of the following categories of public buildings:

(1) schools owned, occupied, or administered by municipalities;

(2) other public buildings owned or occupied by the State of Vermont, counties, municipalities, or other public entities; and

(3) public buildings in Vermont that receive incentives or financing, or both, from the State of Vermont and are not within the category described in subdivision (1) or (2) of this subsection.

(d) The Commissioner shall submit the report and recommendation to the Senate Committees on Agriculture and on Natural Resources and Energy and the House Committees on Agriculture and Forestry and on Energy and Technology.

* * * Sales and Use Tax; Advanced Wood Boilers * * *

Sec. 19. 32 V.S.A. § 9701 is amended to read:

§ 9701. DEFINITIONS

Unless the context in which they occur requires otherwise, the following terms when used in this chapter mean:

* * *

(54) “Noncollecting vendor” means a vendor that sells tangible personal property or services to purchasers who are not exempt from the sales tax under this chapter, but that does not collect the Vermont sales tax.

(55) “Advanced wood boiler” means a boiler or furnace:

(A) installed as a primary central heating system;

(B) rated as high-efficiency, meaning a higher heating value or gross calorific value of 85 percent or more;

(C) containing at least one week fuel-storage, automated startup and shutdown, and fuel feed; and

(D) meeting other efficiency and air emissions standards established by the Department of Environmental Conservation.

Sec. 20. 32 V.S.A. § 9741 is amended to read:

§ 9741. SALES NOT COVERED

Retail sales and use of the following shall be exempt from the tax on retail sales imposed under section 9771 of this title and the use tax imposed under section 9773 of this title.

* * *

(52) Advanced wood boilers, as defined in section 9701 of this title, whether for residential or commercial use.

Sec. 21. 32 V.S.A. § 9706(II) is added to read:

(II) The statutory purpose of the exemption for advanced wood boilers in subdivision 9741(52) of this title is to promote the forest products industry in Vermont by encouraging the purchase of modern wood heating systems.

* * * Effective Dates * * *

Sec. 22. EFFECTIVE DATES

(a) This section and Secs. 1–4 (produce inspection), 5 (livestock transfer), 13 (rule adoption; schedule), 16 (Act 250 minor application; small sawmills), and 17 (report; harvest notification; trip tickets) shall take effect on passage.

(b) Sec. 15 (definitions) shall take effect on January 1, 2019 and shall supersede 2016 Acts and Resolves No. 171, Sec. 15. Sec. 15 shall apply to municipal and regional plans adopted or amended on or after January 1, 2019.

(c) Secs. 9 through 12 (forest habitat) shall take effect on May 1, 2019, except that on passage, Secs. 9 through 12 shall apply to the rulemaking and guidance under Sec. 13.

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

(Committee vote: 5-0-0)

H. 908.

An act relating to the Administrative Procedure Act.

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

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

Sec. 1. PURPOSE

The General Assembly adopts the changes in this act to:

(1) improve public participation in rulemaking and public access to the rulemaking process and to adopted rules;

(2) increase the efficiency of the rulemaking process; and

(3) ensure that rules are authorized, necessary, and reasonable and are subject to a thorough regulatory analysis.

Sec. 2. 3 V.S.A. chapter 25 is amended to read:

CHAPTER 25. ADMINISTRATIVE PROCEDURE

Subchapter 1. General Provisions

§ 800. PURPOSE

The General Assembly intends that:

(1) ~~agencies~~ Agencies maximize the involvement of the public in the development of rules;

(2) ~~agency~~ Agency inclusion of public participation in the ~~rule-making processes~~ rulemaking process should be consistent;

(3) Agencies write rules so that they are clear and accessible to the public.

(4) When an agency adopts rules, it subjects the rules to thorough regulatory analysis.

(5) ~~the~~ The General Assembly should articulate, as clearly as possible, the intent of any legislation ~~which~~ that delegates ~~rule-making~~ rulemaking authority;

~~(4)(6) when~~ When an agency adopts policy ~~or~~, procedures, or guidance, it ~~should~~ shall not do so to supplant or avoid the adoption of rules.

§ 801. SHORT TITLE AND DEFINITIONS

(a) This chapter may be cited as the “Vermont Administrative Procedure Act.”

(b) As used in this chapter:

* * *

(7) “Practice” means a substantive or procedural requirement of an agency, affecting one or more persons who are not employees of the agency, ~~which~~ that is used by the agency in the discharge of its powers and duties. The term includes all such requirements, regardless of whether they are stated in writing.

(8) “Procedure” means a practice ~~which~~ that has been adopted in ~~the~~

manner provided in section 835 of this title writing, either at the election of the agency or as the result of a request under subsection 831(b) of this title. The term includes any practice of any agency that has been adopted in writing, whether or not labeled as a procedure, except for each of the following:

(A) a rule adopted under sections 836-844 of this title;

(B) a written document issued in a contested case that imposes substantive or procedural requirements on the parties to the case;

(C) a statement that concerns only:

(i) the internal management of an agency and does not affect private rights or procedures available to the public;

(ii) the internal management of facilities that are secured for the safety of the public and the individuals residing within them; or

(iii) guidance regarding the safety or security of the staff of an agency or its designated service providers or of individuals being provided services by the agency or such a provider;

(D) an intergovernmental or interagency memorandum, directive, or communication that does not affect private rights or procedures available to the public;

(E) an opinion of the Attorney General; or

(F) a statement that establishes criteria or guidelines to be used by the staff of an agency in performing audits, investigations, or inspections, in settling commercial disputes or negotiating commercial arrangements, or in the defense, prosecution, or settlement of cases, if disclosure of the criteria or guidelines would compromise an investigation or the health and safety of an employee or member of the public, enable law violators to avoid detection, facilitate disregard of requirements imposed by law, or give a clearly improper advantage to persons that are in an adverse position to the State.

* * *

(13)(A) “Arbitrary,” when applied to an agency rule or action, means that one or more of the following apply:

(i) There is no factual basis for the decision made by the agency.

(ii) The decision made by the agency is not rationally connected to the factual basis asserted for the decision.

(iii) The decision made by the agency would not make sense to a reasonable person.

(B) The General Assembly intends that this definition be applied in

accordance with the Vermont Supreme Court's application of "arbitrary" in *Beyers v. Water Resources Board*, 2006 VT 65, and *In re Town of Sherburne*, 154 Vt. 596 (1990).

(14) "Guidance document" means a written record that has not been adopted in accordance with sections 836-844 of this title and that is issued by an agency to assist the public by providing an agency's current approach to or interpretation of law or describing how and when an agency will exercise discretionary functions. The term does not include the documents described in subdivisions (8)(A) through (F) of this section.

(15) "Index" means a searchable list of entries that contains subjects and titles with page numbers, hyperlinks, or other connections that link each entry to the text or document to which it refers.

* * *

§ 806. PROCEDURE TO REQUEST ADOPTION OF RULES OR PROCEDURES; GUIDANCE DOCUMENTS

(a) A person may submit a written request to an agency asking the agency to adopt, amend, or repeal a procedure or rule. Within 30 days of after receiving the request, the agency shall initiate ~~rule-making~~ rulemaking proceedings; shall adopt a, amend, or repeal the procedure; or shall deny the request, giving its reasons in writing.

(b) A person may submit a written request to an agency asking the agency to adopt a guidance document as a rule or to amend or repeal the guidance document. Within 30 days after receiving the request, the agency shall initiate rulemaking proceedings; shall amend or repeal the guidance document; or shall deny the request, giving its reasons in writing.

* * *

Subchapter 2. Contested Cases

§ 809. CONTESTED CASES; NOTICE; HEARING; RECORDS

* * *

(i) When a board or commission member who hears all or a substantial part of a case retires from office or completes his or her term before the case is completed, he or she may remain a member of the board or commission for the purpose of deciding and concluding the case. If the member who retires or completes his or her term is a chair, the member may also remain a member for the purpose of certifying questions of law if an appeal is taken, when such is required by law. For this service, the member may be compensated in the manner provided for active members.

* * *

Subchapter 3. Rulemaking; Procedures; Guidance Documents

§ 817. LEGISLATIVE COMMITTEE ON ADMINISTRATIVE RULES

* * *

§ 818. SECRETARY OF STATE; CENTRALIZED RULE SYSTEM

(a) The Secretary of State shall establish and maintain a centralized rule system that is open and available to the public. The system shall include all rules in effect or proposed as of July 1, 2019 and all rules proposed and adopted by agencies of the State after that date.

(b) The Secretary shall design the centralized rule system to:

(1) facilitate public notice of and access to the rulemaking process;

(2) provide the public with greater access to current and previous versions of adopted rules; and

(3) promote more efficient and transparent filing by State agencies of rulemaking documents and review by the committees established in this chapter.

(c) At a minimum, the records included in the system shall include all documents submitted to the Secretary of State under this subchapter.

(d) The centralized rule system may be digital, may be available online, and may be designed to support such other functions as the Secretary of State determines are consistent with the goals of this section and section 800 of this title.

* * *

§ 831. REQUIRED POLICY STATEMENTS AND RULES

(a) Where due process or a statute directs an agency to adopt rules, the agency shall initiate rulemaking and adopt rules in the manner provided by sections 836-844 of this title.

(b) An agency shall adopt a procedure describing an existing practice when so requested by an interested person.

(c) An agency shall initiate rulemaking to adopt as a rule an existing practice or procedure when so requested by 25 or more persons or by the Legislative Committee on Administrative Rules. An agency shall not be required to initiate rulemaking with respect to any practice or procedure, except as provided by this subsection.

(d) An agency required to hold hearings on contested cases as required by section 809 of this title shall adopt rules of procedure in the manner provided in this chapter.

(e) Within 30 days after an agency discovers that the text of a final proposed rule as submitted to the Legislative Committee on Administrative Rules deviates from the text that the agency intended to submit to the Committee, the agency shall initiate rulemaking to correct the rule if the period for final adoption of the rule under subsection 843(c) of this title has elapsed.

(f) Except as provided in subsections (a)-(d)(e) of this section, an agency shall not be required to initiate rulemaking or to adopt a procedure or a rule.

* * *

§ 832a. ~~RULES AFFECTING SMALL BUSINESSES~~

~~(a) Where a rule provides for the regulation of a small business, an agency shall consider ways by which a small business can reduce the cost and burden of compliance by specifying less numerous, detailed or frequent reporting requirements, or alternative methods of compliance.~~

~~(b) An agency shall also consider creative, innovative, or flexible methods of compliance with the rule when the agency finds, in writing, such action would not:~~

~~(1) significantly reduce the effectiveness of the rule in achieving the objectives or purposes of the statutes being implemented or interpreted; or~~

~~(2) be inconsistent with the language or purpose of statutes that are implemented or interpreted by the rule; or~~

~~(3) increase the risk to the health, safety, or welfare of the public or to the beneficiaries of the regulation, or compromise the environmental standards of the State.~~

~~(c) This section shall not apply where the regulation is incidental to:~~

~~(1) a purchase of goods or services by the State or an agency thereof; or~~

~~(2) the payment for goods or services by the State or an agency thereof for the benefit of a third party. [Repealed.]~~

§ 832b. ~~ADMINISTRATIVE RULES AFFECTING SCHOOL DISTRICTS~~

~~If a rule affects or provides for the regulation of public education and public schools, the agency proposing the rule shall evaluate the cost implications to local school districts and school taxpayers, clearly state the associated costs, and report them in a local school cost impact statement to be filed with the~~

~~economic impact statement on the rule required by subsection 838(c) of this title. An agency proposing a rule affecting school districts shall also consider and include in the local school cost impact statement an evaluation of alternatives to the rule, including no rule on the subject which would reduce or ameliorate costs to local school districts while achieving the objectives or purposes of the proposed rule. The Legislative Committee on Administrative Rules may object to any proposed rule if a local school cost impact statement is not filed with the proposed rule, or the Committee finds the statement to be inadequate, in the same manner in which the Committee may object to an economic impact statement under section 842 of this title. [Repealed.]~~

§ 833. STYLE OF RULES

(a) Rules and procedures shall be written in a clear and coherent manner using words with common and everyday meanings, consistent with the text of the rule or procedure.

(b)(1) When an agency proposes to amend an existing rule, it shall replace terms identified as potentially disrespectful by the study produced in accordance with 2012 Acts and Resolves No. 24, Sec. 1 with respectful language recommended therein or used in the Vermont Statutes Annotated, where appropriate.

(2) All new rules adopted by agencies shall use, to the fullest extent possible, respectful language consistent with the Vermont Statutes Annotated and the respectful language study produced in accordance with 2012 Acts and Resolves No. 24, Sec. 1, where appropriate.

(c) The Secretary of State may issue a guidance document suggesting how agencies may draft rules and procedures in accordance with this section. The guidance document may include suggestions on style, numbering, and drafting the content of the filings required under this subchapter.

* * *

§ 835. COMPILATION OF PROCEDURES AND GUIDANCE DOCUMENTS

(a) Procedures and guidance documents shall be maintained by the agency in an official current compilation that is indexed by subject includes an index. Each addition, change, or deletion to the official compilation shall also be dated, indexed, and recorded. The compilation shall be a public record. The agency shall publish the compilation and index on its Internet website and make all procedures and guidance documents available to the public. On or after January 1, 2024, an agency shall not rely on a procedure or guidance document or cite it against any party to a proceeding, unless the procedure or guidance document is included in a compilation maintained and published in accordance with this subsection.

(b) A procedure or guidance document shall not have the force of law. However, this subsection shall not apply to a procedure if a statute that specifically enables the procedure states that it has the force of law. This subsection is not intended to affect whether a court or quasi-judicial body gives deference to a procedure or guidance document issued by an agency whose action is before the court or body.

§ 836. PROCEDURE FOR ADOPTION OF RULES

(a) Except for emergency rules, rules shall be adopted by taking the following steps:

- (1) prefiling, when required;
- (2) filing the proposed rule;
- (3) publishing the proposed rule;
- (4) holding a public hearing and receiving comments;
- (5) filing the final proposal;
- (6) responding to the Legislative Committee on Administrative Rules when required; and
- (7) filing the adopted rule.

(b) During the rulemaking process, the agency proposing the rule shall post on its website information concerning the proposal.

(1) The agency shall post the information on a separate page that is readily accessible from a prominent link on its main web page and that lists proposed rules by title and topic.

(2) For each rulemaking, the posted information shall include:

- (A) The proposed rule as filed under section 838 of this title.
- (B) The date by which comments may be submitted on the proposed rule and the address for such submission.
- (C) The date and location of any public hearing.
- (D) Each comment submitted to the agency on the proposed rule. The agency shall redact sensitive personal information from the posted comments. As used in this subdivision (D), “sensitive personal information” means each of the items listed in 9 V.S.A. § 2430(5)(A)(i)–(iv) and does not include the name, affiliation, and contact information of the commenter.
- (E) The final proposed rule as filed under section 841 of this title.
- (F) Each document submitted by the agency to the Legislative Committee on Administrative Rules.

(3) The agency shall maintain the information required by this subsection on its website until the earliest of the following dates: filing of a final adopted rule under section 843 of this title; withdrawal of the proposed rule; or expiration of the period for final adoption under subsection 843(c) of this title.

(4) If an agency is a board or commission exercising quasi-judicial functions and members of the public can access all of the information required by subdivision (2) of this subsection through the agency's online case-management system, this information need not also be posted on the agency's website. Instead, the list of proposed rules on the agency's website shall include the case number for each proposed rule and instructions for accessing all of the information about the proposed rule in the agency's online case-management system.

* * *

§ 838. FILING OF PROPOSED RULES

(a) Filing; information. Proposed rules shall be filed with the Secretary of State.—The filing shall include in a format determined by the Secretary that includes the following information:

(1) ~~a cover sheet;~~ The name of the agency and the subject or title of the rule.

(2) ~~an~~ An analysis of economic impact statement;

(3) ~~an incorporation~~ An analysis of environmental impact.

(4) ~~An explanation of all material incorporated by reference statement, if the proposed rule includes an incorporation by reference;~~ any.

(4) ~~an adopting page;~~

(5) ~~the~~ The text of the proposed rule;

(6) ~~an~~ An annotated text showing changes from existing rules; The annotated text of the rule shall include markings to indicate clearly changed wording from any existing rule.

(7) ~~an~~ An explanation of the strategy for maximizing public input on the proposed rule as prescribed by the Interagency Committee on Administrative Rules; and

(8) ~~a~~ A brief summary of the scientific information upon which the proposed rule is based, to the extent the proposed rule depends on scientific information for its validity. The summary shall refer to the scientific studies on which the proposed rule is based and shall explain the procedure for obtaining such studies from the agency.

~~(b)~~ The cover sheet shall be on a form prepared by the Secretary of State containing at least the following information:

~~(1)~~ the name of the agency;

~~(2)~~ the title or subject of the rule;

~~(3)~~(9) a A concise summary in plain language explaining the effect of the rule; and its effect.

~~(4)~~(10) the The specific statutory authority for the rule, and, if none exists, the general statutory authority for the rule;

~~(5)~~(11) an An explanation of why the rule is necessary;

~~(6)~~(12) an An explanation of the people, enterprises, and government entities affected by the rule;

~~(7)~~ a brief summary of the economic impact of the rule;

~~(8)~~(13) the The name, address, and telephone number of an individual in the agency able to answer questions and receive comments on the proposal;

~~(9)~~(14) a A proposed schedule for completing the requirements of this chapter, including, if there is a hearing scheduled, the date, time, and place of that hearing and a deadline for receiving comments;

~~(10)~~(15) ~~whether~~ Whether the rule contains an exemption from inspection and copying of public records, or otherwise contains a Public Records Act exemption by designating information as confidential or limiting its public release and, if so, the asserted statutory authority for the exemption and a brief summary of the reason for the exemption; ~~and~~.

~~(11)~~(16) a A signed and dated statement by the adopting authority approving the contents of the filing.

~~(c)~~(b) Economic impact analysis; rules affecting small businesses and school districts.

(1) General requirements. The economic impact ~~statement~~ analysis shall analyze the anticipated costs and benefits to be expected from adoption of the rule. Specifically, each economic impact ~~statement~~ analysis shall, for each requirement in the rule:

(A) ~~List categories~~ list each category of people, enterprises, and government entities potentially affected and estimate for each the costs and benefits anticipated; ~~and~~

(B) ~~Compare~~ compare the economic impact of the rule with the economic impact of other alternatives to the rule, including having no rule on the subject or a rule having separate requirements for small ~~business~~ businesses.

~~(C) Include a flexibility statement. The flexibility statement shall compare the burden imposed on small businesses by compliance with the rule to the burden which would be imposed by alternatives considered under section 832a of this title.~~

~~(D) Include a greenhouse gas impact statement. The greenhouse gas impact statement shall explain how the rule has been crafted to reduce the extent to which greenhouse gases are emitted. The Secretary of Administration, in conjunction with the Secretaries of Agriculture, Food and Markets, of Natural Resources, and of Transportation, and the Commissioner of Public Service shall provide a checklist which shall be used in the adoption of rules to assure the full consideration of greenhouse gas impacts, direct and indirect.~~

(2) Small businesses. When a rule provides for the regulation of a small business, in the economic impact analysis, the agency shall include, when appropriate, a specific and clearly demarcated evaluation of ways by which a small business can reduce the cost and burden of compliance by specifying less numerous, detailed, or frequent reporting requirements or alternative methods of compliance.

(A) An agency shall also include in this evaluation its consideration of creative, innovative, or flexible methods of compliance with the rule when the agency finds, in writing, that these methods of compliance would not:

(i) significantly reduce the effectiveness of the rule in achieving the objectives or purposes of the statutes being implemented or interpreted; or

(ii) be inconsistent with the language or purpose of statutes that are implemented or interpreted by the rule; or

(iii) increase the risk to the health, safety, or welfare of the public or to the beneficiaries of the regulation or compromise the environmental standards of the State.

(B) This subdivision (2) shall not apply when the regulation is incidental to:

(i) a purchase of goods or services by the State or an agency thereof; or

(ii) the payment for goods or services by the State or an agency thereof for the benefit of a third party.

(3) School districts. If a rule affects or provides for the regulation of public education and public schools, the economic impact analysis shall include a specific and clearly demarcated evaluation of the cost implications to local school districts and school taxpayers and shall clearly state the associated

costs. This evaluation also shall include consideration of alternatives to the rule, including having no rule on the subject, that would reduce or ameliorate costs to local school districts while achieving the objectives or purposes of the proposed rule.

(4) Most appropriate method. In addition, each economic impact statement analysis shall conclude that the rule is the most appropriate method of achieving the regulatory purpose ~~and, with respect to small businesses, contain any findings required by section 832a of this title.~~ Only employees of the agency and information either already available to the agency or available at reasonable cost shall need be used in preparing economic impact statements analyses.

(c) Environmental impact analysis. The environmental impact analysis shall:

(1) Analyze the anticipated environmental impacts, whether positive or negative, from adoption of the rule. Examples of environmental impacts include the emission of greenhouse gases; the discharge of pollutants to water; and effects on the ability of the environment to provide benefits such as food and fresh water, regulation of climate and water flow, and recreation.

(2) Compare the environmental impact of the rule with the environmental impact of other alternatives to the rule, including having no rule on the subject.

(d) Incorporation by reference.

(1) A rule may incorporate by reference all or any part of a code, standard, or rule that has been adopted by an agency of the United States, this State, or another state or by a nationally recognized organization or association, if:

(A) repeating verbatim the text of the code, standard, or rule in the rule would be unduly cumbersome, expensive, or otherwise inexpedient; and

(B) the reference in the rule fully identifies the incorporated code, standard, or rule by citation, date, and place where copies are available.

(2) Materials incorporated by reference shall be readily available to the public. As used in this subsection, “readily available” means that all of the following apply:

(A) Each filing states where copies of the incorporated code, standard, or rule are available in written or electronic form from the agency adopting the rule or the agency of the United States, this State, another state, or the organization or association originally issuing the code, standard, or rule.

(B) A copy of the code, standard, or rule is made available for public

inspection at the principal office of the agency, and is available at that office for copying in the manner set forth in 1 V.S.A. § 316 and subject to the exceptions set forth in 1 V.S.A. § 317(c).

(C) The incorporated code, standard, or rule is made available for free public access online unless the agency is prevented from providing such access by law or legally enforceable contract.

~~(d) Any required incorporation by reference statement shall include a separately signed statement by the adopting authority:~~

~~(1) certifying that the text of the matter incorporated has been reviewed by the agency, with the name of the reviewing official;~~

~~(2) explaining how the text of the matter incorporated can be obtained by the public, and at what cost;~~

~~(3) explaining any modifications to the matter incorporated;~~

~~(4) discussing the comparative desirability of reproducing the incorporated matter in full in the text of the rule; and~~

~~(5) certifying that the agency has the capability and the intent to enforce the rule.~~

~~(e) The adopting page shall be on a form prepared by the Secretary of State and shall contain the name of the agency, the subject of the proposed rule, an explanation of the effect of the proposal on existing rules, and any internal reference number assigned by the agency.~~

~~(f) The annotated text of the rule shall include markings to clearly indicate changed wording from any existing rule.~~

~~(g) The brief summary of scientific information shall refer to scientific studies upon which the proposed rule is based and shall explain the procedure for obtaining such studies from the agency.~~

§ 839. PUBLICATION OF PROPOSED RULES

(a) Online. The Secretary of State shall publish online notice of a proposed rule within two weeks ~~of~~ after receipt of the proposed rule. Notice shall include the following information:

(1) the name of the agency;

(2) the title or subject of the rule;

(3) a concise summary in plain language of the effect of the rule;

(4) an explanation of the people, enterprises, and governmental entities affected by the rule;

- (5) a brief summary of the economic impact;
- (6) the name, telephone number, and address of an agency official able to answer questions and receive comments on the proposal;
- (7) the date, time, and place of the hearing or hearings; and
- (8) the deadline for receiving comments.

(b) Editing of notices. The Secretary of State may edit all notices for clarity, brevity, and format and shall include a brief statement explaining how members of the public can participate in the rulemaking process.

(c) Newspaper publication. The Secretary of State shall arrange for one formal publication, in a consolidated advertisement in newspapers having general circulation in different parts of the State as newspapers of record approved by the Secretary of State, of information relating to all proposed rules that includes the following information:

- (1) the name of the agency and its Internet address;
- (2) the title or subject and a concise summary of the rule and the Internet address at which the rule may be viewed; and
- (3) the office name, office telephone number, and office mailing address of an agency official able to answer questions and receive comments on the proposal.

(d) Reimbursement. The Secretary of State shall be reimbursed by agencies making publication in accordance with subsection (c) of this section so that all costs are prorated among agencies publishing at the same time.

* * *

§ 841. FINAL PROPOSAL

(a) After considering public comment as required in section 840 of this title, an agency shall file a final proposal with the Secretary of State and with the Legislative Committee on Administrative Rules. The Committee may require that the agency include an electronic copy of the final proposal with its filing.

(b) The filing of the final proposal shall include all information required to be filed with the original proposal, suitably amended to reflect any changes made in the rule and the fact that public hearing and comment ~~has~~ have been completed.

(1) With the final proposal, the agency shall include a statement that succinctly and separately addresses each of the following:

- (A) how the proposed rule is within the authority of the agency;

(B) why the proposed rule is not arbitrary;

(C) the strategy for maximizing public input that was prescribed by the Interagency Committee on Administrative Rules and the actions taken by the agency that demonstrate compliance with that strategy;

(D) the sufficiency of the economic impact analysis; and

(E) the sufficiency of the environmental impact analysis.

(2) Where When an agency decides in a final proposal to overrule substantial arguments and considerations raised for or against the original proposal or to reject suggestions with respect to separate requirements for small businesses, the final proposal shall include a description of the reasons for the agency's decision.

* * *

§ 842. REVIEW BY LEGISLATIVE COMMITTEE

(a) Objection; time frame; process. ~~Within 30 days of the date a rule is first placed on the Committee's agenda but no later than 45 days after the filing of a final proposal unless the agency consents to an extension of this review period, the Legislative Committee on Administrative Rules, by majority vote of the entire Committee, may object under subsection (b), (c), or (d) of this section, and recommend that the agency amend or withdraw the proposal. The agency shall be notified promptly of the objections. Failure to give timely notice shall be deemed approval. The agency shall within 14 days of after receiving notice respond in writing to the Committee and send a copy to the Secretary of State. In its response, the agency may include revisions to the proposed rule or filing documents that seek to cure defects noted by the Committee. After receipt of this response, the Committee may withdraw or modify its objections.~~

(b) Grounds for objection. The Committee may object under this subsection if:

(1) a proposed rule is beyond the authority of the agency;

(2) a proposed rule is contrary to the intent of the Legislature;

(3) a proposed rule is arbitrary; ~~or~~

(4) the agency did not adhere to the strategy for maximizing public input prescribed by the Interagency Committee on Administrative Rules;

(5) a proposed rule is not written in a satisfactory style in accordance with section 833 of this title;

(6) the economic impact analysis fails to recognize a substantial

economic impact of the proposed rule, fails to include an evaluation and statement of costs to local school districts required under section 838 of this title, or fails to recognize a substantial economic impact of the rule to such districts; or

(7) the environmental impact analysis fails to recognize a substantial environmental impact of the proposed rule.

(c) Objections; legal effect.

(1) When objection is made under this subsection section, and the objection is not withdrawn after the agency responds, on majority vote of the entire Committee, it may file the objection in certified form with the Secretary of State. The objection shall contain a concise statement of the Committee's reasons for its action. The Secretary shall affix to each objection a certification of its filing and as soon as practicable transmit a copy to the agency.

(2) After a Committee objection is filed with the Secretary under this subsection, or on the same grounds under subsection 817(d) of this title, to the extent that the objection covers a rule or portion of a rule, the burden of proof thereafter shall be on the agency in any action for judicial review or for enforcement of the rule to establish that the part objected to is within the authority delegated to the agency, is consistent with the intent of the Legislature, is not arbitrary, and is written in a satisfactory style in accordance with section 833 of this title, and that the agency did adhere to the strategy for maximizing public input prescribed by the Interagency Committee on Administrative Rules and its economic and environmental impact analyses did not fail to recognize a substantial economic or environmental impact. The objection of the Committee shall not be admissible evidence in any proceeding other than to establish the fact of the objection. If the agency fails to meet its burden of proof, the Court court shall declare the whole or portion of the rule objected to invalid.

(3) The failure of the Committee to object to a rule is not an implied legislative authorization of its substantive or procedural lawfulness.

~~(e) The Committee may object under this subsection if a proposed rule is not written in a satisfactory style according to section 833 of this title.~~

~~(d) The Committee may object under this subsection if the economic impact statement fails to recognize a substantial economic impact of the proposed rule that the Committee describes in its notice of objection. The Committee may object one time under this subsection and return the proposed rule to the agency as unacceptable for filing. The agency may then cure the defect and adopt the rule, or it may adopt the rule without change.~~

(e) Notice of objection; inclusion on rule copies. When an objection is made under subsection (b) of this section and has been certified by the Secretary of State, notice of the objection shall be included on all copies of the rule distributed to the public.

§ 843. FILING OF ADOPTED RULES

(a) An adopting authority may adopt a properly filed final proposed rule after:

(1) The passage of 30 days from the date a rule is first placed on the committee's agenda or 45 days after filing of a final proposal under section 841 of this title, whichever occurs first, provided the agency has not received notice of objection from the Legislative Committee on Administrative Rules; or

(2) Receiving notice of approval from the Legislative Committee on Administrative Rules; or

(3) Responding to an objection of the Legislative Committee on Administrative Rules under section 842 of this title. After responding to such an objection, an agency may adopt the rule without change or may make a germane change in accordance with subsection (b) of this section.

(b) The text of the adopted rule shall be the same as the text of the final proposed rule submitted under section 841, except that any germane change may be made by the agency in response to an objection or expressed concern of the Legislative Committee on Administrative Rules.

(c) Adoption shall be complete upon proper filing with the Secretary of State and with the Legislative Committee on Administrative Rules. An agency shall have eight months from the date of initial filing with the Secretary of State to adopt a rule unless extended by action or request of the Legislative Committee on Administrative Rules. The Secretary of State shall refuse to accept a final filing after that date, except that:

(1) Within 30 days after discovering that the text of a final adopted rule deviates from the text of a final proposed rule as approved by the Legislative Committee on Administrative Rules, an agency shall correct the adopted rule to conform to the final proposed rule as so approved and shall refile the adopted rule in the manner set forth in this section, along with documentation demonstrating that the refiled adopted rule conforms to the final proposed rule as approved.

(2) An agency may refile a final adopted rule in the manner set forth in this section solely for the purpose of correcting one or more typographic errors that do not change the substance or effect of the rule.

* * *

§ 844. EMERGENCY RULES

(a) Where an agency believes that there exists an imminent peril to public health, safety, or welfare, it may adopt an emergency rule. The rule may be adopted without having been prefiled or filed in proposed or final proposed form, and may be adopted after whatever notice and hearing that the agency finds to be practicable under the circumstances. The agency shall make reasonable efforts to ensure that emergency rules are known to persons who may be affected by them.

(b) Emergency rules adopted under this section shall not remain in effect for more than ~~120~~ 180 days. An agency may propose a permanent rule on the same subject at the same time that it adopts an emergency rule.

(c) Emergency rules adopted under this section shall be filed with the Secretary of State and with the Legislative Committee on Administrative Rules. The Legislative Committee on Administrative Rules shall distribute copies of emergency rules to the appropriate standing committees.

(d) Emergency rules adopted under this section shall include:

(1) as much of the information required for the filing of a proposed rule as is practicable under the circumstances; and

(2) a signed and dated statement by the adopting authority explaining the nature of the imminent peril to the public health, safety, or welfare and approving of the contents of the rules.

(e)(1) On a majority vote of the entire Committee, the Committee may object under this subsection if an emergency rule is:

(A) beyond the authority of the agency;

(B) contrary to the intent of the Legislature;

(C) arbitrary; or

(D) not necessitated by an imminent peril to public health, safety, or welfare sufficient to justify adoption of an emergency rule.

(2) When objection is made under this subsection, on majority vote of the entire Committee, the Committee may file the objection in certified form with the Secretary of State. The objection shall contain a concise statement of the Committee's reasons for its action. The Secretary shall affix to each objection a certification of its filing and as soon as practicable transmit a copy to the agency. After a Committee objection is filed with the Secretary under this subsection, to the extent that the objection covers a rule or portion of a rule, the burden of proof thereafter shall be on the agency in any action for

judicial review or for enforcement of the rule to establish that the part objected to is within the authority delegated to the agency, is consistent with the intent of the Legislature, is not arbitrary, and is justified by an imminent peril to the public health, safety, or welfare. If the agency fails to meet its burden of proof, the ~~Court~~ court shall declare the whole or portion of the rule objected to invalid. The failure of the Committee to object to a rule is not an implied legislative authorization of its substantive or procedural lawfulness.

(3) When the Committee makes an objection to an emergency rule under this subsection, the agency may withdraw the rule to which an objection was made. Prior to withdrawal, the agency shall give notice to the Committee of its intent to withdraw the rule. A rule shall be withdrawn upon the filing of a notice of withdrawal with the Secretary of State and the Committee. If the emergency rule amended an existing rule, upon withdrawal of the emergency rule, the existing rule shall revert to its original form, as though the emergency rule had never been adopted.

(f) In response to an expressed concern of the Legislative Committee on Administrative Rules, an agency may make a germane change to an emergency rule that is approved by the Committee. A change under this subsection shall not be considered a newly adopted emergency rule and shall not extend the period during which the emergency rule remains in effect.

(g) In the alternative to the grounds specified in subsection (a) of this section, an agency may adopt emergency amendments to existing rules using the process set forth in this section if each of the subdivisions (1)–(5) of this subsection applies. On a majority vote of the entire Committee, the Legislative Committee on Administrative Rules may object to the emergency amendments on the basis that one or more of these subdivisions do not apply or under subdivision (e)(1)(A), (B), or (C) of this section, or both.

(1) The existing rules implement a program controlled by federal statute or rule or by a multistate entity.

(2) The controlling federal statute or rule has been amended to require a change in the program or the multistate entity has made a change in the program that is to be implemented in all of the participating states.

(3) The controlling federal statute or rule or the multistate entity requires implementation of the change within 120 days or less.

(4) The adopting authority finds each of the following in writing:

(A) The agency cannot by the date required for implementation complete the final adoption of amended rules using the process set forth in sections 837 through 843 of this title.

(B) Failure to amend the rules by the date required for implementation would cause significant harm to the public health, safety, or welfare or significant financial loss to the State.

(5) On the date the emergency rule amendments are adopted pursuant to this subsection, the adopting authority prefiles a corresponding permanent rule pursuant to section 837 of this title.

§ 845. EFFECT OF RULES

(a) Rules shall be valid and binding on persons they affect, and shall have the force of law unless amended or revised or unless a court of competent jurisdiction determines otherwise. Except as provided by subsections 842(b)(c) and 844(e) of this title, rules shall be prima facie evidence of the proper interpretation of the matter ~~that to which~~ they refer to.

(b) No agency shall grant routine waivers of or variances from any provisions of its rules without either amending the rules, or providing by rule for a process and specific criteria under which the agency may grant a waiver or variance procedure in writing. The duration of the waiver or variance may be temporary if the rule so provides.

* * *

§ 847. AVAILABILITY OF ADOPTED RULES; RULES BY SECRETARY OF STATE

(a) Availability from agency. An agency shall make each rule it has finally adopted available to the public online and for physical inspection and copying. Online, the agency shall post its adopted rules on a separate web page that is readily accessible from a prominent link on its main web page, that lists adopted rules by title and topic, and that is searchable.

(b) Register; code.

(1) The Secretary of State (Secretary) shall keep open to public inspection a permanent register of rules. The Secretary may satisfy this requirement by incorporating the register into the centralized rule system created pursuant to section 818 of this title.

(2) The Secretary ~~also~~ shall publish a code of administrative rules that contains the rules adopted under this chapter. The requirement to publish a code shall be considered satisfied if a commercial publisher offers such a code in print at a competitive price and at no charge online. However, if the Secretary establishes the centralized rule system under section 818 of this title as a digital system, then the system shall include the online publication of this code.

~~(b) The Secretary of State shall publish not less than quarterly a bulletin~~

~~setting forth the text of all rules filed since the immediately preceding publication and any objections filed under subsection 842(b) or 844(e) of this title.~~

~~(c) The bulletin may omit any rule if either:~~

~~(1) a commercial publisher offers a comparable publication at a competitive price; or~~

~~(2) all three of the following apply:~~

~~(A) its publication would be unduly cumbersome or expensive; and~~

~~(B) the rule is made available on application to the adopting agency; and~~

~~(C) the bulletin contains a notice stating the general subject matter of the omitted rule and stating how a copy of the rule and any objection filed under subsection 842(b) or 844(e) of this title may be obtained.~~

~~(d) Bulletins shall be made available upon request to agencies and officials of this State free of charge and to other persons at prices fixed by the Secretary of State to cover mailing and publication costs.~~

~~(e)(c) Rules for administration. The Secretary of State shall adopt rules for the effective administration of this chapter. These rules shall be applicable to every agency and shall include uniform procedural requirements, style, appropriate forms, and a system for compiling and indexing rules.~~

§ 848. ~~RULES REPEAL; OPERATION OF LAW~~ AMENDMENT OF AUTHORITY; NOTICE BY AGENCY

~~(a) Repeal by operation of law. A rule shall be repealed without formal proceedings under this chapter if:~~

~~(1) the agency that adopted the rule is abolished and its authority, specifically including its authority to implement its existing rules, has not been transferred to another agency; or~~

~~(2) a court of competent jurisdiction has declared the rule to be invalid; or~~

~~(3) the statutory authority for the rule, as stated by the agency under subdivision 838(b)(4) of this title, is repealed by the General Assembly or declared invalid by a court of competent jurisdiction.~~

~~(b) Notice to Secretary of State; deletion. When a rule is repealed by operation of law under this section, the agency that adopted the rule shall notify the Secretary of State in such manner as the Secretary may prescribe by rule or procedure, and the Secretary of State shall delete the rule from the published code of administrative rules.~~

(c) Repeal for nonpublication.

(1) On July 1, 2018, a rule shall be repealed without formal proceedings under this chapter if:

(A) as of July 1, 2016, the rule was in effect but not published in the code of administrative rules; and

(B) the rule is not published in such code before July 1, 2018.

(2) An agency seeking to publish a rule described in subdivision (1) of this subsection may submit a digital copy of the rule to the Secretary of State with proof acceptable to the Secretary that as of July 1, 2016 the rule was adopted and in effect under this chapter and the digital copy consists of the text of such rule without change.

(d) Amendment of authority for rule.

(1) If the statutory authority for a rule, as stated by the agency under subdivision 838(b)(4) of this title, is amended by the General Assembly, and the amendment does not transfer authority from the adopting agency to another agency, the agency within 30 days following the effective date of the statutory amendment shall review the rule and make a written determination as to whether such the statutory amendment repeals the authority upon which the rule is based, or requires revision of the rule and shall, within 60 days of the effective date of the statutory amendment, inform in writing submit a copy of this written determination to the Secretary of State and the Legislative Committee on Administrative Rules whether repeal or revision of the rule is required by the statutory amendment, in such manner as the Secretary may prescribe by rule or procedure.

(2) If the statutory authority for a rule, as stated by the agency under subdivision 838(b)(4) of this title, is transferred by act of the General Assembly to another agency, the agency to which the authority is transferred shall provide notice of the transfer, in such manner as the Secretary of State may prescribe by rule or procedure, within 30 days following the effective date of the statutory amendment, to the Secretary and the Legislative Committee on Administrative Rules.

~~§ 849. BOARDS AND COMMISSIONS; RETIRING MEMBERS~~

~~When a board or commission member, who hears all or a substantial part of a case, retires from office or completes his or her term before the case is completed, he or she may remain a member of the board or commission for the purpose of deciding and concluding the case. If the member who retires or completes his or her term is a chair, he or she may also remain a member for the purpose of certifying questions of law if appeal is taken, where such is required by law. For this service, the member may be compensated in the~~

manner provided for active members. [Repealed.]

Sec. 3. REDESIGNATION

Within 3 V.S.A. chapter 25 (administrative procedure):

(1) §§ 800–808 shall be within subchapter 1.

(2) §§ 809–816 shall be within subchapter 2.

(3) §§ 817–849 shall be within subchapter 3.

Sec. 4. MISFILING OF EDUCATION RULES

(a) Filing of incorrect rule text.

(1) On or about April 16, 2013, the State Board of Education (SBE) approved revisions to its rules on special education, Series 2360 (the Rules) for submission to the Legislative Committee on Administrative Rules (LCAR). The rulemaking number for the proposed revisions was 12-P55.

(2) On May 30, 2013, LCAR approved revisions to the Rules proposed by the SBE. LCAR approved the Rules as it received them, without change.

(3) On or about June 4, 2013, the SBE submitted the approved rule in final adopted form to LCAR and the Secretary of State (SOS). The number for the final adopted rule was 13-03.

(4) In 2013, the versions of the Rules submitted by the SBE for approval by LCAR and for final adoption were not the correct version and were submitted in error.

(5) The correct version of the Rules was the text approved by the SBE on or about April 16, 2013. This version was distributed by the Agency of Education to the public as if it were the adopted rule.

(b) Notwithstanding any contrary provision of 3 V.S.A. § 836, 843, or 845, on or before 30 days after the effective date of this section, the SBE shall file the version of the Rules approved by the SBE on or about April 16, 2013 as a final proposal pursuant to 3 V.S.A. § 841. The SBE shall include with this filing a certification signed by the Chair of the SBE that the text of the final proposal is the same as the version of the rules approved by the SBE on or about April 16, 2013.

Sec. 5. EFFECTIVE DATES

(a) This section and Sec. 4 (misfiling of education rules) shall take effect on passage.

(b) The remainder of this act shall take effect on July 1, 2018, except that in Sec. 2, 3 V.S.A. §§ 818 and 847(b) and (c) shall take effect on July 1, 2019.

(Committee vote: 4-0-1)

(No House amendments)

H. 910.

An act relating to the Open Meeting Law and the Public Records Act.

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

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

* * * Open Meeting Law * * *

Sec. 1. 1 V.S.A. § 310 is amended to read:

§ 310. DEFINITIONS

As used in this subchapter:

(1) “Business of the public body” means the public body’s governmental functions, including any matter over which the public body has supervision, control, jurisdiction, or advisory power.

(2) “Deliberations” means weighing, examining, and discussing the reasons for and against an act or decision, but expressly excludes the taking of evidence and the arguments of parties.

~~(2)~~(3)(A) “Meeting” means a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action.

~~(B) “Meeting” shall not mean written correspondence or an electronic~~ any communication, including in person or through e-mail, telephone, or teleconferencing, between members of a public body for the purpose of scheduling a meeting, organizing an agenda, or distributing materials to discuss at a meeting, provided that:

(i) no other business of the public body is discussed or conducted; and

(ii) such a ~~written correspondence or such an electronic~~ communication that results in written or recorded information shall be available for inspection and copying under the Public Records Act as set forth in chapter 5, subchapter 3 of this title.

(C) “Meeting” shall not mean occasions when a quorum of a public body attends social gatherings, conventions, conferences, training programs, press conferences, media events, or otherwise gathers, provided that the public

body does not discuss specific business of the public body that, at the time of the exchange, the participating members expect to be business of the public body at a later time.

(D) "Meeting" shall not mean a gathering of a quorum of a public body at a duly warned meeting of another public body, provided that the attending public body does not take action on its business.

~~(3)~~(4) "Public body" means any board, council, or commission of the State or one or more of its political subdivisions, any board, council, or commission of any agency, authority, or instrumentality of the State or one or more of its political subdivisions, or any committee of any of the foregoing boards, councils, or commissions, except that "public body" does not include councils or similar groups established by the Governor for the sole purpose of advising the Governor with respect to policy.

~~(4)~~(5) "Publicly announced" means that notice is given to an editor, publisher, or news director of a newspaper or radio station serving the area of the State in which the public body has jurisdiction, and to any person who has requested under subdivision 312(c)(5) of this title to be notified of special meetings.

~~(5)~~(6) "Quasi-judicial proceeding" means a proceeding which is:

(A) a contested case under the Vermont Administrative Procedure Act; or

(B) a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunity to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, and the result of which is appealable by a party to a higher authority.

* * * Public Records Act * * *

Sec. 2. 1 V.S.A. § 315 is amended to read:

§ 315. STATEMENT OF POLICY; SHORT TITLE

(a) It is the policy of this subchapter to provide for free and open examination of records consistent with Chapter I, Article 6 of the Vermont Constitution. Officers of government are trustees and servants of the people and it is in the public interest to enable any person to review and criticize their decisions even though such examination may cause inconvenience or embarrassment. All people, however, have a right to privacy in their personal and economic pursuits, which ought to be protected unless specific information is needed to review the action of a governmental officer. Consistent with these principles, the General Assembly hereby declares that

certain public records shall be made available to any person as hereinafter provided. To that end, the provisions of this subchapter shall be liberally construed to implement this policy, and the burden of proof shall be on the public agency to sustain its action.

(b) The General Assembly finds that public records are essential to the administration of State and local government. Public records contain information that allows government programs to function, provides officials with a basis for making decisions, and ensures continuity with past operations. Public records document the legal responsibilities of government, help protect the rights of citizens, and provide citizens a means of monitoring government programs and measuring the performance of public officials. Public records provide documentation for the functioning of government and for the retrospective analysis of the development of Vermont government and the impact of programs on citizens.

(c) This subchapter may be known and cited as the Public Records Act or the PRA.

Sec. 3. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS; EXEMPTIONS

* * *

(e)(1) For any exemption to the Public Records Act enacted or substantively amended in legislation introduced in the General Assembly in 2019 or later, in the fifth year after the effective date of the enactment, reenactment, or substantive amendment of the exemption, the exemption shall be repealed on July 1 of that fifth year except if the General Assembly reenacts the exemption prior to July 1 of the fifth year or if the law otherwise requires.

(2) Legislation that enacts, reenacts, or substantively amends an exemption to the Public Records Act shall explicitly provide for its repeal on July 1 of the fifth year after the effective date of the exemption unless the legislation specifically provides otherwise.

(f) Unless otherwise provided by law, a record produced or acquired during the period of applicability of an exemption that is subsequently repealed shall, if exempt during that period, remain exempt following the repeal of the exemption.

Sec. 4. LEGISLATIVE INTENT

(a) In Sec. 3 of this act, the repeal and reenactment provision added in 1 V.S.A. § 317(e) shall apply only to Public Records Act exemptions that are enacted, reenacted, or substantively amended in legislation introduced in the

General Assembly in 2019 or later.

(b) In rearranging the text of existing law in 1 V.S.A. § 318(b)-(c) within Sec. 5 of this act, the General Assembly intends to make the text more organized and clear, and does not intend to effect any substantive changes through the rearrangement of existing text.

Sec. 5. 1 V.S.A. § 318 is amended to read:

§ 318. PROCEDURE

(a)(1) As used in this section, “promptly” means immediately, with little or no delay, and, unless otherwise provided in this section, not more than three business days:

(A) from receipt of a request under this subchapter; or

(B) in the case of a reversal on appeal by a head of the agency pursuant to subsection (c) of this section, from the date of the determination on appeal.

(2) A custodian or head of the agency who fails to comply with the applicable time limit provisions of this section shall be deemed to have denied the request or the appeal upon the expiration of the time limit.

(b) Upon request, the custodian of a public record shall promptly produce the record for inspection or a copy of the record, except that:

(1) If the record is in active use or in storage and therefore not available for use at the time the person asks to examine it, the custodian shall so promptly certify this fact in writing to the applicant and, in the certification, set a date and hour within one calendar week of the request when the record will be available for examination.

(2) If the custodian considers the record to be exempt from inspection and copying under the provisions of this subchapter, the custodian shall promptly so certify in writing. Such certification shall identify the records withheld and the basis for the denial. A record shall be produced for inspection or a certification shall be made that a record is exempt within three business days of receipt of the request, unless otherwise provided in subdivision (5) of this subsection. The certification shall:

(A) identify the records withheld;

(B) include the asserted statutory basis for denial and a brief statement of the reasons and supporting facts for denial.—The custodian shall also;

(C) provide the names and titles or positions of each person responsible for denial of the request; and

(D) notify the person of his or her right to appeal to the head of the agency any adverse determination.

~~(3) If appealed to the head of the agency, the head of the agency shall make a determination with respect to any appeal within five business days after the receipt of such appeal. If an appeal of the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under section 319 of this title. [Repealed.]~~

(4) If a record does not exist, the custodian shall promptly certify in writing that the record does not exist under the name given to the custodian by the applicant or by any other name known to the custodian.

(5) In unusual circumstances as herein specified, the time limits prescribed in this ~~subsection~~ section may be extended by written notice to the person making such the request setting forth the reasons for such the extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten business days from receipt of the request or, in the case of a reversal on appeal by a head of the agency pursuant to subsection (c) of this section, from the date of the determination on appeal. As used in this subdivision, “unusual circumstances” means to the extent reasonably necessary to the proper processing of the particular request:

(A) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(B) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records ~~which~~ that are demanded in a single request; or

(C) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject matter interest therein, or with the Attorney General.

~~(b) Any person making a request to any agency for records under subsection (a) of this section shall be deemed to have exhausted the person's administrative remedies with respect to each request if the agency fails to comply within the applicable time limit provisions of this section. Upon any determination by an agency to comply with a request for records, the records shall be made available promptly to the person making such request. Any notification of denial of any request for records under this section shall set forth the names and titles or positions of each person responsible for the denial~~

of such request.

(c)(1) Any denial of access by the custodian of a public record may be appealed to the head of the agency. The head of the agency shall make a written determination on an appeal within five business days after the receipt of the appeal.

(2) A If the head of the agency upholds the denial of a request for records, in whole or in part, the written determination shall include:

(A) the asserted statutory basis for upholding the denial and;

(B) a brief statement of the reasons and supporting facts for upholding the denial; and

(C) notification of the provisions for judicial review of the determination under section 319 of this title.

~~(2)(3) If the head of the agency reverses the denial of a request for records, the records shall be promptly made available to the person making the request. A failure by the agency to comply with any of the time limit provisions of this section shall be deemed a final denial of the request for records by the agency.~~

* * *

(h) The head of a State agency or department shall:

(1) designate the agency's or department's records officer described in 3 V.S.A. § 218, or shall designate some other person, to be accountable for overseeing the processing of requests for public records received by the agency or department in accordance with this section; and

(2) post on the agency's or department's website the name and contact information of the person designated under subdivision (1) of this subsection.

Sec. 6. 1 V.S.A. § 318a is added to read:

§ 318a. EXECUTIVE BRANCH AGENCY PUBLIC RECORDS REQUEST SYSTEM

(a) The Secretary of Administration shall maintain and update the Public Records Request System established pursuant to 2006 Acts and Resolves No. 132, Sec. 3 and 2011 Acts and Resolves No. 59, Sec. 13 with the information furnished under subsection (b) of this section and post System information on the website of the Agency of Administration.

(b) All public agencies of the Executive Branch of the State:

(1) that receive a written request to inspect or copy a record under this subchapter shall catalogue the request in the Public Records Request System

established and maintained by the Secretary of Administration by furnishing the following information:

(A) the date the request was received;

(B) the agency that received the request;

(C) the person that made the request, including a contact name;

(D) the status of the request, including whether the request was fulfilled in whole, fulfilled in part, or denied;

(E) if the request was fulfilled in part or denied, the exemption or other grounds asserted as the basis for partial fulfillment or denial;

(F) the estimated hours necessary to respond to the request;

(G) the date the agency closed the request; and

(H) the elapsed time between receipt of the request and the date the agency closed the request; and

(2) shall post in a conspicuous location on their respective websites a link to the location on the Agency of Administration's website where Public Records Request System information is maintained.

Sec. 7. REPEAL

2011 Acts and Resolves No. 59, Sec. 13 (State agency public request system) is repealed.

* * * Effective Date * * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on July 1, 2018, except that Sec. 3 shall take effect on January 1, 2019.

(Committee vote: 4-0-1)

(No House amendments)

H. 919.

An act relating to workforce development.

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

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

* * * Stakeholder Alignment, Coordination, and Engagement * * *

Sec. 1. STAKEHOLDER ALIGNMENT, COORDINATION, AND ENGAGEMENT PROCESS; VISION; GOALS

(a) Stakeholder alignment, coordination, and engagement. The State Workforce Development Board, in cooperation with the Department of Labor and the Agencies of Commerce and Community Development, of Education, of Human Services, of Agriculture, Food and Markets, of Natural Resources, and of Transportation shall:

(1) conduct a stakeholder alignment, coordination, and engagement process, consistent with 20 C.F.R. §§ 679.100 and 679.130 and 10 V.S.A. § 541a, to ensure and promote better coordination and agreement around the State's vision and shared goals for meeting Vermont's 21st-century workforce education, training, recruitment, and retention needs;

(2) design the stakeholder alignment, coordination, and engagement process to inform workforce-related aspects of other State strategic plans and reports, including the Workforce Innovation and Opportunity Act State Plan, the State Economic Development Marketing Plan, and the Statewide Comprehensive Economic Development Strategy; and

(3) solicit the perspectives of job seekers, incumbent workers, employers, industry representatives, program administrators, and workforce service delivery providers.

(b) Action plan. In adopting an action plan, the State Workforce Development Board shall:

(1) on or before February 1, 2020, describe the State's collective workforce development goals, which shall serve as the basis for an action plan to revitalize Vermont's workforce development system;

(2) post online the vision, goals, and any findings or recommendations; and

(3) provide advance notice to the Chair and Vice Chair of the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs if the recommendations may require legislative action during the 2020 legislative session.

(c) Regional delivery systems. The State Workforce Development Board shall review how functions performed by local workforce investment boards, career technical education regional advisory boards, regional planning commissions, regional development corporations, and other regional economic development and workforce-related boards could be more equitably executed

from region to region and recommend structures that would foster better regional collaboration, alignment, and employer participation.

(d) Information sharing. The Department of Labor, with assistance from the State Workforce Development Board, shall facilitate the sharing of information among workforce development and training-delivery organizations during and following the stakeholder alignment, coordination, and engagement process so they may stay current with initiatives and plans related to building an effective workforce development system.

(e) Board authority; permissive activities. The State Workforce Development Board may:

(1) create a workforce development network map of workforce service delivery providers, employers, workforce program administrators, and industry representatives to:

(A) develop baseline data in conformance with the Workforce Innovation and Opportunity Act about how individuals, including new Americans, and organizations, both within and outside State government, are involved with workforce development and training around the State;

(B) analyze the relative level of connectivity of people and programs managed inside and outside State government; and

(C) identify opportunities to strengthen connectivity to achieve greater program alignment toward, and realize the Board's vision for, the State's workforce development and training system;

(2) identify the resources necessary to maintain the network map over time and track changes in levels of connectivity and alignment across the stakeholder community;

(3) recommend strategies to improve:

(A) how employer-outreach positions in each of the State-funded field offices might be shared;

(B) what type of coordination is needed between the State-level employer-outreach staff and local workforce organizations, including staff of the regional development corporations and regional planning commissions, to better serve employers;

(C) whether establishing a One-Stop American Job Center in each region to provide comprehensive customer-driven services for employers and job seekers could better serve businesses, improve responsiveness to the needs of emerging sectors, and increase access to qualified, available workers through direct outreach and recruitment;

(D) scaling or expanding pilot projects that link experts who have career and industry knowledge directly with middle schools or high schools, or both, to foster career readiness and exploration;

(E) ways to share data and information collected from employers among parties who implement workforce development programs; and

(F) what knowledge and education employers may require better to respond to their employees as workers and as members of a family; and

(4) following the stakeholder alignment, coordination, and engagement process outlined in subsection (a) of this section, make recommendations to align relevant funding sources to promote:

(A) employer-driven workforce education and training opportunities;

(B) results-based outcomes;

(C) innovative and effective initiatives, pilots, or demonstration programs that can be scaled to the rest of the State;

(D) access to federal resources that enable more innovative programs and initiatives in Vermont;

(E) equitable access to employment and training opportunities for women and underrepresented populations in Vermont; and

(F) best practices aligned with a two-generation approach to eliminating poverty, as identified by the Vermont Work Group on Whole Family Approach to Jobs.

Sec. 2. 10 V.S.A. § 541a is amended to read:

§ 541a. STATE WORKFORCE DEVELOPMENT BOARD

(a) Board established; duties. Pursuant to the requirements of 29 U.S.C. § 3111, the Governor shall establish a the State Workforce Development Board to assist the Governor in the execution of his or her duties under the Workforce Innovation and Opportunity Act of 2014 and to assist the Commissioner of Labor as specified in section 540 of this title.

(b) Additional duties; planning; process.

(1) In order to To inform its ~~decision-making~~ decision making and to provide effective assistance under subsection (a) of this section, the Board shall:

~~(1)(A)~~ (A) conduct an ongoing public engagement process throughout the State that brings together employers and potential employees, including students, the unemployed, and incumbent employees seeking further training, to provide feedback and information concerning their workforce education and

training needs; and

(2)(B) maintain familiarity and promote alignment with the federal, State, and regional Comprehensive Economic Development Strategy (CEDS) and other economic development planning processes, and coordinate workforce and education activities in the State, including the development and implementation of the State plan required under the Workforce Innovation and Opportunity Act of 2014, with economic development planning processes occurring in the State, as appropriate.

(2) To ensure that State-funded and federally funded workforce development and training efforts are of the highest quality and aligned with the State's workforce and economic goals, the Board shall regularly:

(A) review and approve State-endorsed Career Pathways that reflect a shared vision across multiple sectors and agencies for improving employment outcomes, meeting employers' and workers' needs, and leveraging available State and federal funding; and

(B) publicize the State-endorsed Career Pathways, including on websites managed by the Agency of Education, Department of Labor, and Department of Economic Development.

(3) The Board shall have the authority to approve State-endorsed and industry-recognized credentials and certificates, excluding high school diplomas and postsecondary academic degrees, that are aligned with the Career Pathways.

* * *

Sec. 3. RESERVATION OF FUNDS; IMPLEMENTATION

In fiscal year 2019, the Department of Labor shall reserve the amount of \$40,000.00 from the Workforce Development Council Fund and the amount of \$40,000.00 of federal Workforce Innovation and Opportunity Act funds reserved by the Governor for statewide workforce investment activities, subject to permissible use, to assist the State Workforce Development Board in performing the duties specified in this act.

* * * CTE and Adult Technical Education; Career Pathways * * *

Sec. 4. CAREER PATHWAYS

(a) Definition. As used in this section, "career pathways" means a combination of rigorous and high-quality educational, training, and other experiences and services, beginning not later than seventh grade, that:

(1) at the secondary level, integrates the academic and technical skills required for postsecondary success;

(2) is developed in partnership with business and industry and aligns with the skill needs of industries in the local, regional, and State economies;

(3) prepares an individual to transition seamlessly from secondary to postsecondary or adult technical education experiences and be successful in any of a full range of secondary, postsecondary, or adult technical education options, including registered apprenticeships;

(4) includes career counseling and work-based learning experiences to support an individual in achieving the individual's educational and career goals;

(5) includes, as appropriate, education offered concurrently with, and in the same context as, workforce preparation activities and training for a specific occupation or occupational cluster;

(6) organizes educational, training, and other experiences and services, with multiple entry and exit points along a training progression, to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;

(7) enables an individual to gain a secondary-school diploma or its recognized equivalent and allow postsecondary credit and industry certifications to be earned in high school; and

(8) prepares an individual to enter, or to advance within, a specific occupation or occupational cluster.

(b) Development of career pathways. The Agency of Education shall implement a process for developing career pathways that considers:

(1) State and local labor market demands;

(2) the recommendations of regional career technical education advisory boards or other employer-based boards;

(3) alignment with postsecondary education and training opportunities; and

(4) students' ability to gain credentials of value, dual enrollment credits, postsecondary credentials or degrees, and employment.

(c) Reporting. The Agency of Education shall report its progress in developing career pathways to the Board on an annual basis.

Sec. 5. CAREER READINESS; CTE PILOTS

(a) Collaboration. The Agency of Education shall promote collaboration among middle schools and regional career technical education (CTE) centers to engage in activities including:

(1) developing and delivering introductory CTE courses or lessons to middle school students that are part of broader career education, exploration, and development programs and that are connected to career pathways and CTE programs, as appropriate;

(2) increasing student exposure to local career opportunities through activities such as business tours, guest lectures, career fairs, and career-awareness days; and

(3) increasing student exposure to CTE programs through activities such as tours of regional CTE centers, virtual field trips, and CTE guest visits.

(b) Pilot projects. The Agency of Education shall approve up to four pilot projects in a variety of CTE settings. These pilot projects shall propose novel ways of integrating funding for CTE and general education and new governance structures for regional CTE centers, including unified governance structures between regional CTE centers and high schools, or both. Pilot projects shall require both high school and regional CTE center involvement, and shall be designed to enhance the delivery of educational experiences to both high school students and CTE students while addressing the current competitive nature of funding CTE programs.

(1) A pilot project shall extend not longer than two years.

(2) The Agency shall establish guidelines, proposal submission requirements, and a review process to approve pilot projects.

(3) On or before January 15, 2020, the Agency shall report on the outcomes of the pilot projects to the House and Senate Committees on Education, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development, Housing and General Affairs.

(c) Recommendation on CTE pre-tech programs. On or before January 15, 2020, the Agency of Education shall recommend to the House and Senate Committees on Education, the House Committee on Commerce and Economic Development, and the Senate Committee on Economic Development flexible and student-centered policies that support equitable access and opportunity to participate in CTE pre-tech foundation and exploratory programs for students in grades 9 and 10. This recommendation shall include building such activities into students' personalized learning plans when appropriate, so that students are exposed to a wide variety of career choices in their areas of interest. In making its recommendation, the Agency shall consider:

(1) the existing practices of regional CTE centers currently offering CTE pre-tech foundation and exploratory programs for students in grades 9 and 10;

(2) the results of the collaborative efforts made between regional CTE centers and middle schools as required under subsection (a) of this section; and

(3) the results of the pilot projects under subsection (b) of this section.

(d) Technical assistance.

(1) The Agency of Education shall provide technical assistance to schools to help them develop career education, exploration, and development, beginning in middle school, and introduce opportunities available through the regional CTE centers.

(2) The Agency of Education shall offer technical assistance so that regional CTE centers provide rigorous programs of study to students that are aligned with approved career pathways. Such programs of study may be combined with a registered apprenticeship program when the registered apprenticeship program is included in a student's personalized learning plan.

(3) The Agency of Education shall offer technical assistance to local education agencies to ensure that each high school student has the opportunity to experience meaningful work-based learning when included in the student's personalized learning plan, and that high schools coordinate effectively with regional CTE centers to avoid unnecessary duplication of programs of student placements and study already provided by the centers.

(e) Definition. As used in this section, "career pathways" shall have the same meaning as in Sec. 4 of this act.

Sec. 6. ADULT TRAINING PROGRAMS

(a) Effective use of State investments. The Department of Labor shall ensure that the State's investments in adult training programs are part of a system that is responsive to labor-market demands, provides equitable access to a broad variety of training opportunities, and provides to those jobseekers with barriers to employment the accommodations or services they need to be successful.

(b) Delivery of training programs. Training programs delivered by regional CTE centers, nonprofit and private entities, and institutions of higher education shall be included in the system.

(c) Technical assistance. The Agency of Education shall provide technical and programmatic guidance and assistance, as appropriate, to the Department of Labor to ensure alignment between secondary and postsecondary programs, policies, funding, and institutions.

Sec. 7. ADULT CAREER TECHNICAL EDUCATION

(a) Regional career technical education (CTE) centers. Vermont's regional

CTE centers shall offer adult CTE programs that:

(1) develop technical courses for adults, aligned with a career pathway when possible, that support the occupational training needs of Vermonters seeking to up-skill, re-skill, and obtain credentials leading to employment;

(2) ensure that new and existing training responds to local or Statewide labor market demands;

(3) coordinate with State and regional partners, including other CTE centers, high schools, postsecondary educational institutions, and private training providers, to ensure quality, consistency, efficiency, and efficacy of State and federally funded training opportunities;

(4) support expansion of adult work-based learning experiences, such as registered apprenticeships, by providing related instruction, as appropriate; and

(5) maximize use of federal and State funds by aligning with the State's goals, priorities, and strategies outlined in Vermont's Workforce Innovation and Opportunity Act Unified plan.

(b) Evaluation of technical and occupational training. The State Workforce Development Board shall review how technical and occupational training is delivered to adults throughout the State and consider how adult CTE programs, delivered through the regional CTE centers, contribute to this system. The Board shall make recommendations on:

(1) staffing levels and structures that best support a strong adult technical education system;

(2) optimal hours of operation and facility availability for adult programs; and

(3) any other issues it finds relevant to enhancing support for adult technical education.

(c) Reporting. On or before January 15, 2019, the Board shall report its findings and recommendations to the House Committees on Education and on Commerce and Economic Development and the Senate Committees on Education and on Economic Development, Housing and General Affairs.

(d) Partnering with employers. Nothing in this section shall prevent an adult CTE program or regional CTE center from partnering directly with employers to design and deliver programs meeting specific needs of employers or provide additional courses that meet a State or community need.

(e) Definition. As used in this section, "career pathways" shall have the same meaning as in Sec. 4 of this act.

* * * Workforce Training * * *

Sec. 8. STRENGTHENING AND ALIGNING WORKFORCE TRAINING PROGRAMS

The State Workforce Development Board shall:

(1) create a process for identifying, monitoring, and evaluating occupational trainings and industry-recognized credentials, which may include a mechanism for endorsing programs that offer credentials or certificates in order to facilitate targeted investments in programs that meet industry needs, ensuring that:

(A) business and industry are participants and are engaged early in the process;

(B) the credential review process involves relevant stakeholders;

(C) credentials are differentiated based on rigor and industry demand; and

(D) systems are designed to be responsive to the changing needs of industry;

(2) create and periodically review publicly available documents that list:

(A) current industry-recognized, State-recognized, and federally recognized credentials;

(B) the requirements to obtain these credentials;

(C) training programs that lead to these credentials; and

(D) the cost of training and educational programs required to obtain the credential; and

(3) work with the Office of Professional Regulation:

(A) to increase recognition of professional skills and credentialing across states; and

(B) to support professional paths that involve more than one industry-recognized, State-recognized, or federally recognized credential and rules adopted by the Office.

Sec. 9. 10 V.S.A. § 543 is amended to read:

§ 543. WORKFORCE EDUCATION AND TRAINING FUND; GRANT PROGRAMS

(a) Creation. There is created the Workforce Education and Training Fund in the Department of Labor to be managed in accordance with 32 V.S.A. chapter 7, subchapter 5.

(b) Purposes. The Department shall use the Fund for the following

purposes:

(1) training for Vermont workers, including those who are unemployed, underemployed, or in transition from one job or career to another;

(2) internships to provide students with work-based learning opportunities with Vermont employers;

(3) apprenticeship, preapprenticeship, and industry-recognized credential training; ~~and~~

(4) assistance to small businesses for recruiting, including building connections with secondary and postsecondary institutions and others to locate, hire, and retain workers from among Vermont's students and graduates; and

(5) other workforce development initiatives related to current and future job opportunities in Vermont as determined by the Commissioner of Labor.

* * *

(f) Awards. The Commissioner of Labor, in consultation with the Chair of the State Workforce Development Board, shall develop award criteria and may grant awards to the following:

* * *

(2) Vermont ~~Strong~~ Internship Program. Funding for eligible internship programs and activities under the Vermont ~~Strong~~ Internship Program established in section 544 of this title.

(3) Vermont ~~Strong~~ Returnship Program. Funding for eligible returnship programs and activities under the Vermont ~~Strong~~ Returnship Program established in section 545 of this title.

(4) Apprenticeship Program. The Vermont Apprenticeship Program established under 21 V.S.A. chapter 13. Awards under this subdivision may be used to fund the cost of apprenticeship-related instruction provided by the Department of Labor.

(4)(5) Career Focus and Planning programs. In collaboration with the Agency of Education, funding for one or more programs that institute career training and planning for young Vermonters, beginning in middle school.

(g) Career Pathways. Programs that are funded under this section resulting in a credit, certificate, or credential shall demonstrate alignment with a Career Pathway.

(h) Expanding offerings. A regional career and technical education center that develops an adult technical education program of study using funding under this section shall:

(1) make the program materials available to other regional career and technical education centers and adult technical education programs;

(2) to the extent possible, align the program with subsequent programs offered through the Vermont State College System, the University of Vermont and State Agricultural College, or an accredited independent college located in Vermont; and

(3) respond to current or projected occupational demands.

* * *

* * * Growing the Workforce and Increasing Workforce Participation * * *

Sec. 10. 10 V.S.A. § 544 is amended to read:

§ 544. VERMONT STRONG INTERNSHIP PROGRAM

(a)(1) The Department of Labor, in consultation with the Agency of Education, shall develop, and the Department shall implement, a statewide Vermont Strong Internship Program for students who are in high school or in college and for those who are recent graduates of 24 months or less.

(2) The Department of Labor shall coordinate and provide funding to public and private entities for internship programs that match Vermont employers with students from public and private secondary schools, regional technical centers, the Community High School of Vermont, colleges, and recent graduates of 24 months or less.

(3) Funding awarded through the Vermont Strong Internship Program may be used to build and administer an internship program and to provide participants with a stipend during the internship, based on need. Funds may be made only to programs or projects that:

(A) do not replace or supplant existing positions;

(B) expose students to the workplace or create real workplace expectations and consequences;

(C) provide a process that measures progress toward mastery of skills, attitude, behavior, and sense of responsibility required for success in that workplace;

(D) are designed to motivate and educate participants through work-based learning opportunities with Vermont employers;

(E) include mechanisms that promote employer involvement with secondary and postsecondary students and curriculum and the delivery of education at the participating schools; or

(F) offer participants a continuum of learning, experience, and

relationships with employers that will make it financially possible and attractive for graduates to continue to work and live in Vermont.

(4) As used in this section, “internship” means a learning experience working with an employer where the intern may, but does not necessarily, receive academic credit, financial remuneration, a stipend, or any combination of these.

(b) The Department of Labor, in collaboration with the Agencies of Agriculture, Food and Markets and of Education, State-funded postsecondary educational institutions, the State Workforce Development Board, and other State agencies and departments that have workforce education and training and training monies, shall:

(1) identify new and existing funding sources that may be allocated to the Vermont Strong Internship Program;

(2) collect data and establish program goals and performance measures that demonstrate program results for internship programs funded through the Vermont Strong Internship Program;

(3) develop or enhance a website that will connect students and graduates with internship opportunities with Vermont employers;

(4) engage appropriate agencies and departments of the State in the Vermont Internship Program to expand internship opportunities with State government and with entities awarded State contracts; and

(5) work with other public and private entities to develop and enhance internship programs, opportunities, and activities throughout the State.

Sec. 11. 10 V.S.A. 545 is added to read:

§ 545. VERMONT RETURNSHIP PROGRAM

(a) As used in this section, “returnship” means:

(1) an on-the-job learning experience working with an employer where an individual may, but does not necessarily, receive academic credit, financial remuneration, a stipend, or any combination of these; and

(2) is targeted to Vermonters who are returning to the workforce after an extended absence or are seeking a limited-duration on-the-job work experience in a different occupation or occupational setting.

(b)(1) The Department of Labor shall develop and implement the statewide Vermont Returnship Program.

(2) The Department of Labor shall coordinate and provide funding to public and private entities for returnship programs and opportunities that

match experienced workers with Vermont employers.

(3) Funding awarded through the Program may be used to build and administer coordinated and cohesive programs and to provide participants with a stipend during the returnship, based on need. Funds may be made available only to programs or projects that:

(A) do not replace or supplant existing positions;

(B) expose individuals to real and meaningful workplace experiences;

(C) provide a process that measures progress toward mastery of hard and soft professional skills and other factors that indicate a likelihood of success in the workplace;

(D) are designed to motivate and educate participants through work-based learning opportunities with Vermont employers; or

(E) offer participants a continuum of learning, experience, and relationships with employers that will make it financially possible and attractive for individuals to continue to work and live in Vermont.

(c) The Department of Labor shall:

(1) identify new and existing funding sources that may be allocated to the Program;

(2) collect data and establish program goals and performance measures that demonstrate program results for returnship programs funded through the Program;

(3) engage appropriate agencies and departments of the State in the Program to expand returnship opportunities within State government and with entities awarded State contracts; and

(4) work with other public and private entities to develop and enhance returnship programs, opportunities, and activities throughout the State.

Sec. 12. VERMONT RETURNSHIP PROGRAM; APPROPRIATIONS

In fiscal year 2019 the amount of \$100,000.00 is appropriated from the General Fund to the Department of Labor for the Vermont Returnship Program created in 10 V.S.A. § 545.

Sec. 13. GROWING THE SIZE AND QUALITY OF THE WORKFORCE

(a) Increasing participation. The Department of Labor and the Agencies of Commerce and Community Development, of Education, and of Human Services, in partnership with the State Workforce Development Board, shall:

(1) increase Vermonters' labor force participation by creating

multitiered engagement, training, and support activities that help working-age Vermonters who are able to participate or to participate to a greater degree in the workforce;

(2) recruit and relocate new workers and employers to Vermont; and

(3) assist businesses in locating and retaining qualified workers.

(b) Methods. The Department of Labor and the Agencies of Commerce and Community Development, of Education, and of Human Services shall:

(1) engage regional and statewide stakeholders, including regional CTE centers, regional development corporations, and regional planning commissions, to identify needs and strategies, and define success;

(2) identify targets and methods of recruitment, relocation, retraining, and retention;

(3) leverage resources available in current State and federal programs to support more workers from within and outside Vermont entering and staying in the Vermont workforce;

(4) create metrics for tracking the success of outreach efforts and economic impact; and

(5) develop policies and identify tools that support a two-generation approach to successful employment, addressing the needs of children in the lives of working adults.

(c) Relocation assistance unit.

(1) The Department of Labor may develop a relocation assistance unit to assist resident jobseekers and prospective new Vermont workers with finding and securing employment opportunities in Vermont.

(2) If the Department develops the relocation assistance unit:

(A) In addition to providing employment matching and career navigation services, dedicated specialists shall provide individualized assistance and support to individuals looking to relocate to Vermont for employment.

(B) Support services may include specific assistance in researching, accessing, or making referrals to resources, information, or services related to the labor market, employment, training, transportation, housing, childcare, economic services, education, safety, or recreation.

(C) The Department shall access existing tools, resources, and organizations such as the State or local Chambers of Commerce, Parent Child Centers, Regional Development Corporations, the Vermont National Guard,

and other One-Stop American Job Center Network partners to assist in providing relocation information and support.

(D) The Department shall offer the services available under this subsection to Vermont customers as it would to a nonVermont citizen customer.

(E)(i) The Department shall use State funds provided under this section to leverage federal Wagner-Peyser funds, and any other relevant source of federal funds, to deliver employment and relocation services.

(ii) The Department shall ensure that functions provided under this section do not jeopardize the use and continued eligibility for federal funding under the Workforce Innovation and Opportunity Act (WIOA).

(F) The Department shall ensure that the Agency of Commerce and Community Development has access to information, data, and customer feedback so that the Agency may better understand the impact of its recruitment efforts, messaging, and any other ThinkVermont MOVE activity it implements.

(d) Board authority; identifying potential incentives. The State Workforce Development Board may identify incentives to enable and encourage targeted populations to participate in the labor force, including unemployment insurance waivers, income tax reductions, exemption of State tax on Social Security, housing and transportation vouchers, greater access to mental health and addiction treatment, and tuition and training reimbursements. The Board shall notify the House Committees on Commerce and Economic Development and on Human Services of any findings or recommendations, as appropriate.

Sec. 14. 10 V.S.A. § 540 is amended to read:

§ 540. WORKFORCE EDUCATION AND TRAINING LEADER

The Commissioner of Labor shall be the leader of workforce education and training in the State, and shall have the authority and responsibility for the coordination of workforce education and training within State government, including the following duties:

(1) Perform the following duties in consultation with the State Workforce Development Board:

* * *

(G) design and implement criteria and performance measures for workforce education and training activities; ~~and~~

(H) establish goals for the integrated workforce education and training system; and

(I) with the assistance of the Secretaries of Commerce and Community Development, of Human Services, of Education, of Agriculture, Food and Markets, and of Transportation and of the Commissioner of Public Safety, develop and implement a coordinated system to recruit, relocate, and train workers to ensure the labor force needs of Vermont's businesses are met.

* * *

(8) Coordinate intentional outreach and connections between students graduating from Vermont's colleges and universities and employment opportunities in Vermont.

* * *

* * * Accountability; Data Collection and Monitoring; Reporting * * *

Sec. 15. RESULTS-BASED MONITORING

(a)(1) The Department of Labor, with the assistance of the Government Accountability Committee and the State Workforce Development Board, shall develop a framework to evaluate workforce education, training, and support programs and services.

(2) The Department shall apply the framework to the State's workforce system inventory and shall distinguish programs and services based on method of delivery, customer, program administrator, goal, or other appropriate category.

(3) The framework shall:

(A) establish population-level indicators based on desired outcomes for the workforce development delivery system;

(B) along with workforce development network mapping work that the Board may pursue, support program and service alignment of State-grant-funded projects with the State Workforce Innovation and Opportunity Act Plan;

(C) align with the Board's vision;

(D) note performance measures that already exist in the workforce system and identify where State-specific measures would help monitor progress in achieving the State's goals; and

(E) identify gaps in service delivery and areas of duplication in services.

(b) The State Workforce Development Board shall:

(1) consider whether the information and data currently collected and reported throughout the workforce development system are useful;

(2) identify what information and data are not available or not readily accessible;

(3) make its findings publicly available; and

(4) recommend a process to improve the collection and reporting of data.

(c) The State Workforce Development Board may:

(1) create a process and a timeline to collect program-level data for the purposes of updating the State's workforce system inventory; and

(2) develop tools for program and service delivery providers that support continuous improvement using data-driven decision making, common information-sharing systems, and a customer-focused service delivery system.

Sec. 16. REPORTING

(a) On or before January 15, 2019, the State Workforce Development Board shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a report that specifically addresses the implementation of each section of this act.

(b) On or before January 15, 2019, the Department of Labor, in collaboration with the Agency of Education and the State Workforce Development Board, shall report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs concerning:

(1) how to encourage more businesses to offer apprenticeships;

(2) how to encourage more labor force participation in apprenticeships; and

(3) of the myriad federal and private apprenticeship opportunities available, what additional opportunities in what industry sectors should be offered or enhanced in Vermont.

* * * WIOA Youth Funds * * *

Sec. 17. PROCESS FOR AWARDING WIOA YOUTH FUNDS

(a) On or before December 1, 2018, the Department of Labor shall review the current delivery of youth workforce investment activities funded by WIOA Youth Funds and consider whether more youth might be better served through awards or grants to youth service providers, consistent with section 123 of the federal Workforce Innovation and Opportunity Act.

(b)(1) If the Department decides not to provide directly some or all of the

youth workforce investment activities, the State Workforce Development Board shall award grants or contracts for specific elements or activities on a competitive basis, consistent with 20 CFR 681.400.

(2) The providers of youth services shall meet criteria established in the State Plan and be able to meet performance accountability measures for the federally established primary indicators of performance for youth programs.

Sec. 18. TARGETED ENHANCED YOUTH WORKFORCE READINESS PROGRAM

(a) In fiscal year 2019 the amount of \$100,000.00 is appropriated from the General Fund to the Department of Labor for the first year of a three-year project to contract with the Vermont Youth Conservation Corps for the purpose of enhancing its workforce preparedness and on-the-job training programs, with special attention for at-risk youth 18 to 24 years of age.

(b) The programs funded through this section shall include classroom training at Vermont Technical College and shall focus on vocations where the Department and Vermont employers have identified a shortage of workers.

* * * Promoting Remote Workers and Remote Work Arrangements * * *

Sec. 19. 32 V.S.A. chapter 151, subchapter 11P is added to read:

Subchapter 11P. New Remote Worker Tax Credit

§ 5930pp. NEW REMOTE WORKER TAX CREDIT

(a) As used in this section:

(1) “New resident remote worker” means an individual who:

(A) is a full-time employee of a business with its domicile or primary place of business outside Vermont;

(B) becomes a full-time resident of this State on or after January 1, 2019; and

(C) performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.

(2) “New Vermont remote worker” means an individual who:

(A) becomes a full-time employee of a business with its domicile or primary place of business in this State on or after January 1, 2019; and

(B) performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.

(3) “Qualifying remote worker expenses” means the actual costs incurred by a new Vermont remote worker or a new resident remote worker for

one or more of the following that are necessary to perform his or her employment duties:

- (A) relocation to this State;
- (B) computer software and hardware;
- (C) broadband access or upgrade; and
- (D) membership in a co-working or similar space.

(b)(1) A new Vermont remote worker and a new resident remote worker shall be eligible for a nonrefundable credit against the income tax liability imposed under this chapter for qualifying remote worker expenses in an amount not to exceed \$2,000.00 per year for five years, and not to exceed \$10,000.00 per worker.

(2)(A) The Agency of Commerce and Community Development shall develop a process to certify new Vermont remote workers and new resident remote workers for eligibility for a credit under this section.

(B) Upon certifying that a new Vermont remote worker or new resident remote worker meets the eligibility requirements of this section and certifying his or her qualifying expenses incurred in the year, the Agency shall issue to the worker a credit certificate for the amount of his or her qualifying expenses, which the worker shall file with his or her tax return.

(3) The Agency shall have the authority to annually award not more than \$500,000.00 in credit certificates to new Vermont remote workers and to new resident remote workers on a first-come, first-served basis, as follows:

(A) not more than \$250,000.00 in total credits for new Vermont remote workers; and

(B) any remaining amount of the annual total for new resident remote workers.

(c) A new Vermont remote worker or new resident remote worker may:

(1) first claim a credit under this section in the year following the year in which he or she first qualifies as a new Vermont remote worker or new resident remote worker;

(2) claim an additional credit in each of the subsequent four tax years, provided he or she remains a resident of this State and a full-time remote worker; and

(3) carry forward the amount of any unused credit for five tax years.

(d) The Agency of Commerce and Community Development shall:

(1) promote awareness of the tax credit authorized in this section; and

(2) adopt measurable goals, performance measures that demonstrate results, and an audit strategy to assess the utilization and performance of the credit authorized in this section.

Sec. 20. IMPROVING INFRASTRUCTURE AND SUPPORT FOR
REMOTE WORK IN VERMONT; STUDY; REPORT

(a) The Secretary of Commerce and Community Development, in consultation with the Commissioners of Labor, of Public Service, and of Buildings and General Services and other interested stakeholders, shall identify and examine the infrastructure improvements and other support needed to enhance the ability of businesses to establish a remote presence in Vermont and to allow Vermonters and businesses developing from maker spaces, co-working spaces, remote work hubs, and innovation spaces to work and provide services remotely.

(b) Based on his or her findings, and in consultation with the Commissioners of Labor, of Public Service, and of Buildings and General Services and other interested stakeholders, the Secretary shall design a program to address the needs identified pursuant to subsection (a) of this section.

(c) Specifically, the program shall:

(1) address the infrastructure needs of remote workers and businesses developing from generator spaces;

(2) promote and facilitate the use of remote worksites and maker spaces, co-working spaces, remote work hubs, and innovation spaces;

(3) encourage out-of-state companies to use remote workers in Vermont;

(4) reduce the administrative and regulatory burden on businesses employing remote workers in Vermont;

(5) increase the ease of start-up companies finding remote work or maker spaces, co-working spaces, remote work hubs, and innovation spaces in the State; and

(6) support the interconnection of current and future maker spaces, co-working spaces, remote work hubs, and innovation spaces in this State.

(d) On or before January 15, 2019, the Secretary shall submit to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs a written report detailing:

(1) his or her findings, program, and any recommendations for legislative action to implement the program; and

(2) any additional policy changes to improve the climate for remote workers, including zoning measures, insurance and liability issues, workforce training needs, broadband access, access to co-working spaces, and an assessment of environmental implications of working remotely.

Sec. 21. INTEGRATED PUBLIC-PRIVATE STATE WORKSITES

(a) The Secretary of Administration, in consultation with the Secretary of Commerce and Community Development and the Commissioner of Buildings and General Services, shall examine the potential for the State to establish remote worksites that are available for use by both State employees and remote workers in the private sector.

(b) The Secretary shall examine the feasibility of and potential funding models for the worksites, including the opportunity to provide at low or no cost co-working space within State buildings that are currently vacant or underutilized.

(c) On or before January 15, 2019, the Secretary shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs detailing his or her findings and any recommendations for legislative action.

Sec. 22. BROADBAND AVAILABILITY FOR REMOTE WORKERS

On or before January 15, 2019, the Director of Telecommunications and Connectivity, in consultation with the Agency of Commerce and Community Development, shall submit with the annual report required by 30 V.S.A. § 202e findings and recommendations concerning:

(1) the current availability of broadband service in municipal downtown centers that do, or could at reasonable cost, support one or more co-working spaces or similar venues for remote workers and small businesses; and

(2) strategies for expanding and enhancing broadband availability for such spaces.

* * * Workforce Development in Particular Sectors;
Television and Film Production * * *

Sec. 23. WORKFORCE DEVELOPMENT; FILM AND TELEVISION TRADES

(a) The Vermont Department of Labor, in partnership with the Vermont Film Institute, Vermont Technical College, and local institutes of higher education shall explore and pursue opportunities to access current federal ApprenticeshipUSA funds to develop and offer registered apprenticeships in the film and television production trades industry, including electrical work,

lighting, set building, and art direction.

(b) Related instruction that is developed and administered as part of a registered apprenticeship program shall also provide the registered apprentice with college credit that is recognized by an accredited post-secondary institution in Vermont.

(c) The Department of Labor, in partnership with the Agency of Education and Agency of Commerce and Community development, shall:

(1) promote other work-based learning experiences, including internships, job shadowing, returnships, and on-the-job training, in the film and television production trades industry;

(2) build connections with and among industry professionals; and

(3) conduct outreach to middle school, high school, and postsecondary students.

* * * Workforce Development in Particular Sectors;
Green Energy and Technology * * *

Sec. 24. WORKFORCE DEVELOPMENT; GREEN ENERGY AND TECHNOLOGY

The Department of Labor, in partnership with the Agency of Education, the Agency of Commerce and Community Development, the Agency of Natural Resources, and interested stakeholders, shall:

(1) develop career pathways, beginning in middle school, that lead to employment in the green energy sector;

(2) work with employers in the green energy sector to explore opportunities to create registered apprenticeships,

(3) identify certifications and credentials that support workforce expansion in the green energy sector; and

(4) collaborate, to the extent possible, to create, fund, and offer instruction that leads industry recognized credentials in the green energy sector.

* * * Effective Date * * *

Sec. 25. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 16, 2018, pages 708-709 and March 20, 2018 page 719)

H. 923.

An act relating to capital construction and State bonding budget adjustment.

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

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

Sec. 1. 2017 Acts and Resolves No. 84, Sec. 2 is amended to read:

Sec. 2. STATE BUILDINGS

* * *

(b) The following sums are appropriated in FY 2018:

* * *

(13) Burlington, 108 Cherry Street, ~~parking garage, repairs~~ design, engineering, and architectural costs for the repair of the parking garage and related eligible project costs: ~~\$5,000,000.00~~ \$2,281,094.00

(c) The following sums are appropriated in FY 2019:

(1) Statewide, planning, use, and contingency:

~~\$500,000.00~~ \$600,000.00

(2) Statewide, major maintenance: ~~\$5,707,408.00~~ \$6,900,000.00

* * *

(6) Montpelier, 120 State Street, life safety and infrastructure improvements: ~~\$700,000.00~~ \$1,968,000.00

* * *

(8) Waterbury, Waterbury State Office Complex, Weeks building, renovation and fit-up: ~~\$900,000.00~~ \$1,152,085.00

(9) Newport, Northern State Correctional Facility, door control replacement and perimeter control: ~~\$1,000,000.00~~ \$1,715,000.00

(10) Montpelier, 109 and 111 State Street, final design and construction: ~~\$4,000,000.00~~ \$1,000,000.00

(11) ~~Burlington, 108 Cherry Street, parking garage, repairs:~~ ~~\$5,000,000.00~~ [Repealed.]

* * *

(13) Montpelier, 115 State Street, State House, switchgear and

- emergency generator: \$450,000.00
- (14) Rutland, Asa Bloomer building, rehabilitation of building components and systems, and planning and use study: \$1,050,000.00
- (15) Springfield, State Office Building, repair of the retaining wall, and environmental remediation associated with the retaining wall project: \$1,400,000.00
- (16) St. Albans, Franklin County Courthouse, ADA renovations, new handicap access ramp and related exterior renovations: \$300,000.00
- (17) Waterbury, Waterbury State Office Complex, Stanley and Wasson, demolition of Stanley Hall, and programming, schematic design, and design development for Wasson Hall: \$950,000.00
- (18) Rutland, Marble Valley Regional Correctional Facility, repair of the historic brick and stone masonry wall used as the perimeter security for the facility: \$600,000.00

* * *

(e)(1) On or before December 15, 2018, the Commissioner of Buildings and General Services shall submit to the House Committee on Corrections and Institutions and the Senate Committee on Institutions a report on the John J. Zampieri State Office Building at 108 Cherry Street in Burlington that shall include 20-year economic projections for each of the following options:

(A) selling 108 Cherry Street and leasing, purchasing, or building a new State office space; and

(B) renovating 108 Cherry Street and continuing to use it as State office space in its entirety for State employees; and

(C) renovating 108 Cherry Street and using it as State office space for all direct-service employees currently housed there and leasing the remainder of the space to a non-State entity.

(2) When the General Assembly is not in session, if, based on the projections calculated in subdivision (1) of this subsection (e), the Commissioner of Buildings and General Services determines it is in the best interests of the State to sell the John J. Zampieri State Office Building at 108 Cherry Street in Burlington, he or she may notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and request the approval to sell. The Chairs shall recommend to approve or deny the request to the Joint Fiscal Committee. The Joint Fiscal Committee may approve or deny the recommendation of the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions; provided, however, that an approval to sell shall also require

that the proceeds from the sale be appropriated to future capital construction projects and expended within two years after the date of sale.

(f) For the amount appropriated in subdivision (c)(13) of this section, the Commissioner of Buildings and General Services shall evaluate all proposals for a generator, including the use of a generator or battery backup. After evaluation of the proposals, the Commissioner of Buildings and General Services shall notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions of the decision prior to the purchase of a generator or battery backup. If required by 29 V.S.A. chapter 6, the Commissioner of Buildings and General Services shall ensure that the Capitol Complex Commission is provided with the proposal.

(g) The Commissioner of Buildings and General Services is authorized to use up to \$250,000.00 from the amount appropriated in subdivision (c)(2) of this section to prepare a State-owned building for sale if any renovations are needed.

Appropriation – FY 2018	\$27,857,525.00	\$25,138,619.00
Appropriation – FY 2019	\$27,853,933.00	\$28,131,610.00
Total Appropriation – Section 2	\$55,711,458.00	\$53,270,229.00

Sec. 2. 2017 Acts and Resolves No. 84, Sec. 3 is amended to read:

Sec. 3. HUMAN SERVICES

* * *

(b) The sum of \$300,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Human Services for the projects described in subsection (a) of this section. The following sums are appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Human Services:

(1) Statewide correctional facilities, cameras, locks, perimeter intrusion at correctional facilities: \$300,000.00

(2) Chittenden County Regional Correctional Facility and Northwest State Correctional Facility, renovations, beds for therapeutic placement: \$600,000.00

(3) Essex, Woodside Juvenile Rehabilitation Center, design and construction documents: \$500,000.00

(4) Brattleboro, Brattleboro Retreat, renovation and fit-up: \$4,500,000.00

(c) For the amount appropriated in subdivision (b)(2) of this section, it is

the intent of the General Assembly that the funds be used to construct a therapeutic environment in the Chittenden Regional Correctional Facility and in the Northwest State Correctional Facility for persons in the custody of the Department of Corrections who do not meet the clinical criteria for inpatient hospitalization but would benefit from a more therapeutic placement. The therapeutic environment shall include three beds in the Chittenden Regional Correctional Facility and ten beds in the Northwest State Correctional Facility.

(d) For the amount appropriated in subdivision (b)(4) of this section:

(1) The use of funds shall be restricted to capital renovations and fit-up costs and shall not be used for any periodic lease payments, usage fees, or other operating expenses.

(2)(A) The Department of Buildings and General Services shall not expend funds until the Commissioner of Buildings and General Services and the Secretary of Human Services have notified the Commissioner of Finance and Management and the Chairs of House Committee on Corrections and Institutions and the Senate Committee on Institutions that an agreement has been executed between the Brattleboro Retreat and the State of Vermont.

(B) The agreement described in subdivision (2)(A) of this subsection (d) shall include the following provisions:

(i) the Brattleboro Retreat shall provide a minimum of 12 beds, including level-1 beds, to the State for a period determined by the Secretary to be in the best interests to the State; and

(ii) terms and conditions that ensure the protection of State investment of capital appropriations.

(C) Prior to execution, the State Treasurer shall approve the agreement described in subdivision (2)(A) of this subsection (d) to ensure that it is in compliance with applicable tax-exempt bond requirements.

(D) The Commissioner of Buildings and General Services and Secretary of Human Services may also propose draft legislation to the House Committee on Corrections and Institutions and the Senate Committee on Institutions that may be necessary to fulfill the agreement.

(3)(A) On or before October 15, 2018, the Secretary of Human Services shall notify the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions if an agreement between the Brattleboro Retreat and the State of Vermont cannot be reached and shall submit to them an alternative proposal for the 12 beds. The Secretary of Human Services shall also send the alternative proposal to the Joint Fiscal Committee.

(B) With approval of the Speaker of the House and the President Pro Tempore of the Senate, as appropriate, the House Committee on Corrections and Institutions and the Senate Committee on Institutions may meet up to two times when the General Assembly is not in session to evaluate, approve, or recommend alterations to the proposal. The House Committee on Corrections and Institutions' and the Senate Committee on Institutions' members shall be entitled to receive a per diem and expenses as provided in 2 V.S.A. § 406.

Appropriation – FY 2018	\$300,000.00
Appropriation – FY 2019	\$300,000.00 <u>\$5,900,000.00</u>
Total Appropriation – Section 3	\$600,000.00 <u>\$6,200,000.00</u>

Sec. 3. 2017 Acts and Resolves No. 84, Sec. 4 is amended to read:

Sec. 4. JUDICIARY

* * *

(c) The sum of \$1,496,398.00 is appropriated in FY 2019 to the Judiciary for the case management IT system.

Appropriation – FY 2018	\$3,050,000.00
Appropriation – FY 2019	<u>\$1,496,398.00</u>
Total Appropriation – Section 4	\$3,050,000.00 <u>\$4,546,398.00</u>

Sec. 4. 2017 Acts and Resolves No. 84, Sec. 5 is amended to read:

Sec. 5. COMMERCE AND COMMUNITY DEVELOPMENT

* * *

(c) The sum of ~~\$200,000.00~~ \$300,000.00 is appropriated in FY 2019 to the Department of Buildings and General Services for the Agency of Commerce and Community Development for major maintenance at historic sites statewide.

(d) The following sums are appropriated in FY 2019 to the Agency of Commerce and Community Development for the following projects described in this subsection:

(1) Underwater preserves:	\$30,000.00
(2) Placement and replacement of roadside historic markers:	\$15,000.00 <u>\$29,000.00</u>
(3) VT Center for Geographic Information, digital orthophotographic quadrangle mapping:	\$125,000.00
(4) <u>Schooner Lois McClure, repairs and upgrades:</u>	<u>\$25,000.00</u>

(5) Civil War Heritage Trail, signs: \$30,000.00

* * *

Appropriation – FY 2018	\$450,000.00
Appropriation – FY 2019	\$370,000.00 <u>\$539,000.00</u>
Total Appropriation – Section 5	\$820,000.00 <u>\$989,000.00</u>

Sec. 5. 2017 Acts and Resolves No. 84, Sec. 6 is amended to read:

Sec. 6. GRANT PROGRAMS

* * *

(b) The following sums are appropriated in FY 2019 for Building Communities Grants established in 24 V.S.A. chapter 137:

* * *

(9) To the Enhanced 911 Board for the Enhanced 911 Compliance Grants Program for school safety: \$400,000.00

Appropriation – FY 2018	\$1,475,000.00
Appropriation – FY 2019	\$1,400,000.00 <u>\$1,800,000.00</u>
Total Appropriation – Section 6	\$2,875,000.00 <u>\$3,275,000.00</u>

Sec. 6. 2017 Acts and Resolves No. 84, Sec. 8 is amended to read:

Sec. 8. UNIVERSITY OF VERMONT

* * *

(b) The sum of ~~\$1,400,000.00~~ \$1,650,000.00 is appropriated in FY 2019 to the University of Vermont for the projects described in subsection (a) of this section.

Appropriation – FY 2018	\$1,400,000.00
Appropriation – FY 2019	\$1,400,000.00 <u>\$1,650,000.00</u>
Total Appropriation – Section 8	\$2,800,000.00 <u>\$3,050,000.00</u>

Sec. 6a. 2017 Acts and Resolves No. 84, Sec. 9 is amended to read:

Sec. 9. VERMONT STATE COLLEGES

* * *

(b) The sum of ~~\$2,000,000.00~~ \$3,000,000.00 is appropriated in FY 2019 to the Vermont State Colleges for the projects described in subsection (a) of this section.

Appropriation – FY 2018	\$2,000,000.00
-------------------------	----------------

Appropriation – FY 2019	\$2,000,000.00	<u>\$3,000,000.00</u>
Total Appropriation – Section 9	\$4,000,000.00	<u>\$5,000,000.00</u>

Sec. 7. 2017 Acts and Resolves No. 84, Sec. 10 is amended to read:

Sec. 10. NATURAL RESOURCES

* * *

(e) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Environmental Conservation for the projects described in this subsection:

* * *

(3) State’s share of the Federal Superfund and State Lead Hazardous Waste Program (Elizabeth Mine and ~~Ely Mine~~): \$2,755,000.00 \$177,259.00

* * *

Appropriation – FY 2018		\$10,914,000.00
Appropriation – FY 2019	\$8,205,000.00	<u>\$5,627,259.00</u>
Total Appropriation – Section 10	\$19,119,000.00	<u>\$16,541,259.00</u>

Sec. 8. 2017 Acts and Resolves No. 84, Sec. 11 is amended to read:

Sec. 11. CLEAN WATER INITIATIVES

* * *

(b) The following sums are appropriated in FY 2018 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

* * *

(4) Municipal Pollution Control Grants, pollution control projects and planning advances for feasibility studies, new projects (Ryegate, Springfield, ~~St. Johnsbury~~, and St. Albans): \$2,704,232.00

* * *

(d)(1) The following sums are appropriated in FY 2018 to the Vermont Housing and Conservation Board for the following projects:

(1)(A) Statewide water quality improvement projects or other conservation projects: \$2,800,000.00

(2)(B) Water quality farm improvement grants or fee purchase projects that enhance water quality impacts by leveraging additional funds: \$1,000,000.00

(2) A grant issued under subdivision (1)(B) of this subsection:

(A) shall not be considered a State grant under 6 V.S.A. chapter 215, subchapter 3 for purposes of calculating the maximum amount of a State water quality assistance award under 6 V.S.A. § 4824 or 4826; and

(B) may be used to satisfy a grant recipient's cost share requirements.

(e)(1) The following sum of \$2,000,000.00 is sums are appropriated in FY 2019 to the Agency of Agriculture, Food and Markets for projects described in this subsection:

(A) Best Management Practices and, the Conservation Reserve Enhancement Program, and the Capital Equipment Assistance Program: \$3,615,000.00

(B) Phosphorus removal equipment: \$1,500,000.00

(2) Notwithstanding 6 V.S.A. § 4828(d), an applicant for a grant issued under subdivision (1)(B) of this subsection to purchase or implement phosphorus removal technology or equipment shall pay at least 20 percent of the total eligible project cost. Each grant awarded pursuant to this subsection (e) shall not exceed \$300,000.00.

(f) The following sums are appropriated in FY 2019 to the Agency of Natural Resources for the Department of Environmental Conservation projects described in this subsection:

* * *

(2) EcoSystem restoration and protection Restoration and Protection grant programs: \$5,000,000.00

(A) Standard EcoSystem Restoration and Protection programs: \$3,760,000.00

(B) Municipal Roads Grant-in-Aid: \$3,090,000.00

(C) Multi-Sector Clean Water Block Grants: \$2,000,000.00

(D) Lake Carmi, aeration system or artificial circulation, or both: \$200,000.00

(3) Municipal Pollution Control Grants, new projects (Colchester, Rutland City, St. Albans, Middlebury, and St. Johnsbury): \$1,407,268.00 \$4,040,000.00

(4) Clean Water Act, implementation projects: \$11,112,944.00

The Commissioner of Environmental Conservation may use up to \$1,400,000.00 of the amounts appropriated in subdivision (2) of this subsection to support capital-eligible clean water projects for Lake Carmi;

provided, however, that the Commissioner shall provide prior notification of any project and its cost to the Chairs of the House Committees on Corrections and Institutions and on Natural Resources, Fish, and Wildlife and of the Senate Committees on Institutions and on Natural Resources and Energy.

(5) The Commissioner of Forests, Parks and Recreation may use up to \$50,000.00 of the amounts appropriated in subdivision (2)(A) of this subsection for skidder bridges.

(6) For the amount appropriated in subdivision (2)(B) of this subsection, on or before January 15, 2019, the Commissioner of Environmental Conservation shall report back to the House Committees on Corrections and Institutions and on Transportation and of the Senate Committees on Institutions and on Transportation with a description and cost of each project that received funding.

(g)(1) The sum of 2,750,000.00 is following sums are appropriated in FY 2019 to the Vermont Housing and Conservation Board for:

(A) statewide water quality improvement projects or other conservation projects: \$2,750,000.00

(B) water quality farm improvement grants or fee purchase projects: \$1,000,000.00

(2) A grant issued under subdivision (1)(B) of this subsection:

(A) shall not be considered a State grant under 6 V.S.A. chapter 215, subchapter 3 for purposes of calculating the maximum amount of a State water quality assistance award under 6 V.S.A. § 4824 or 4826; and

(B) may be used to satisfy a grant recipient's cost-share requirements.

(h) It is the intent of the General Assembly that the Secretary of Natural Resources shall use the amount appropriated in ~~subdivision~~ subdivisions (b)(4) and (f)(6) of this section to fund new projects in Ryegate, Springfield, ~~St. Johnsbury~~, and St. Albans City, and in FY 2019 in Colchester, Rutland City, Middlebury, St. Johnsbury, and St. Albans; provided, however, that if the Secretary determines that one of these projects is not ready in FY 2018 or FY 2019, or the amount appropriated exceeds the amount needed to fund these projects, the funds may be used for an eligible new project as authorized by 10 V.S.A. chapter 55 and 24 V.S.A. chapter 120.

* * *

(l) The following sums are appropriated in FY 2019 to the Municipal Mitigation Assistance Program in the Agency of Transportation:

(1) Municipal Highway and Stormwater Mitigation Program:
\$1,000,000.00

(2) Better Roads Program: \$1,400,000.00

(m) The sum of \$200,000.00 is appropriated in FY 2019 to the Agency of Commerce and Community Development for the Downtown Transportation Fund pilot project.

Appropriation – FY 2018 \$21,936,616.00

Appropriation – FY 2019 \$23,470,212.00 \$25,755,000.00

Total Appropriation – Section 11 \$45,406,828.00 \$47,691,616.00

Sec. 9. 2017 Acts and Resolves No. 84, Sec. 12 is amended to read:

Sec. 12. MILITARY

* * *

(b) The following sums are appropriated in FY 2019 to the Department of Military for the projects described in this subsection:

(1) Maintenance, renovations, roof replacements, ADA renovations, and energy upgrades at State armories. To the extent feasible, these funds shall be used to match federal funds: \$700,000.00 \$780,000.00

(2) Bennington Armory, site acquisition: \$60,000.00

Appropriation – FY 2018 \$750,000.00

Appropriation – FY 2019 \$760,000.00 \$840,000.00

Total Appropriation – Section 12 \$1,510,000.00 \$1,590,000.00

Sec. 10. 2017 Acts and Resolves No. 84, Sec. 13 is amended to read:

Sec. 13. PUBLIC SAFETY

* * *

(b) ~~The sum of \$5,573,000.00 is~~ following sums are appropriated in FY 2019 to the Department of Buildings and General Services ~~for:~~

(1) construction of the Williston Public Safety Field Station:
\$5,573,000.00

(2) East Cottage, Robert H. Wood Criminal Justice and Fire Training Center, renovation and fit-up, and historic windows: \$1,850,000.00

(3) Berlin, scoping and preliminary design for the Berlin Public Safety Field Station: \$35,000.00

(c) The sum of \$4,000,000.00 is appropriated in FY 2019 to the

Department of Public Safety for the School Safety and Security Grant Program.

Appropriation – FY 2018	\$1,927,000.00
Appropriation – FY 2019	\$5,573,000.00 <u>\$11,458,000.00</u>
Total Appropriation – Section 13	\$7,500,000.00 <u>\$13,385,000.00</u>

Sec. 11. 2017 Acts and Resolves No. 84, Sec. 16 is amended to read:

Sec. 16. VERMONT VETERANS' HOME

* * *

(c) ~~The sum of \$50,000.00 is~~ following sums are appropriated in FY 2019 to the Vermont Veterans' Home for:

- | | |
|---|---------------------|
| (1) resident care furnishings: | <u>\$50,000.00</u> |
| (2) security, access system, and safety upgrades: | <u>\$100,000.00</u> |

(d) It is the intent of the General Assembly that the amounts appropriated in subsections subsection (a) and subdivision (c)(1) of this section shall be used to match federal funds to purchase resident care furnishings for the Veterans' Home.

(e) The Veterans' Home shall only use the funds appropriated in 2015 Acts and Resolves No. 26, Sec. 16 for an electronic medical records system. These funds shall be used to match federal funds and shall only become available after the Veterans' Home notifies the Chairs of the House Committee on Corrections and Institutions and the Senate Committee on Institutions and the Commissioner of Finance and Management that the electronic medical records system is in compliance with the criteria for creating and maintaining connectivity established by the Vermont Information Technology Leaders pursuant to 18 V.S.A. § 9352(i).

Appropriation – FY 2018	\$390,000.00
Appropriation – FY 2019	\$50,000.00 <u>\$150,000.00</u>
Total Appropriation – Section 16	\$440,000.00 <u>\$540,000.00</u>

Sec. 12. 2017 Acts and Resolves No. 84, Sec. 16a is added to read:

Sec. 16a. DEPARTMENT OF LABOR

The sum of \$500,000.00 is appropriated in FY 2019 to the Department of Labor to fund the Adult Career and Technical Education Equipment Grant Pilot Program to provide equipment to support adult tech programs.

Sec. 13. 2017 Acts and Resolves No. 84, Sec. 16b is added to read:

Sec. 16b. SERGEANT AT ARMS

(a) The sum of \$15,000.00 is appropriated in FY 2019 to the Sergeant at Arms to contract with a third party to conduct an assessment of the sound system in the State House and 1 Baldwin Street pursuant to 2 V.S.A. § 62(a)(8). The Sergeant at Arms shall submit a copy of the assessment to the Committee on Joint Rules.

(b) On or before November 15, 2018, the Sergeant at Arms shall develop a proposal for a sound system for the State House and 1 Baldwin Street based on the assessment described in subsection (a) of this section. As part of the proposal development process, the Sergeant at Arms may consult with the Commissioner of Buildings and General Services.

(c) The Sergeant at Arms shall submit the proposal described in subsection (b) of this section to the Committee on Joint Rules, and to the Secretary of Administration to request inclusion in the Governor's biennial capital budget report pursuant to 32 V.S.A. § 309.

Sec. 14. 2017 Acts and Resolves No. 84, Sec. 16c is added to read:

Sec. 16c. PUBLIC SERVICE

(a) The following sums are appropriated in FY 2019 to the Department of Public Service:

- | | |
|--|---------------------|
| <u>(1) VTA wireless network:</u> | <u>\$900,000.00</u> |
| <u>(2) Northeast Kingdom Fiber Network, fiber access point construction:</u> | <u>\$393,000.00</u> |

(b) On or before September 1, 2018, the Department of Public Service shall submit a report to the House Committees on Corrections and Institutions and on Energy and Technology and the Senate Committees on Finance and on Institutions with an update on the status of the two projects described in subsection (a) of this section. The report shall include an update on the progress of each project and whether any requests for proposals have been issued.

<u>Total Appropriation – Section 16c</u>	<u>\$1,293,000.00</u>
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Sec. 15. 2017 Acts and Resolves No. 84, Sec. 18 is amended to read:

Sec. 18. REALLOCATION OF FUNDS; TRANSFER OF FUNDS

(a) The following sums are reallocated to the Department of Buildings and General Services from prior capital appropriations to defray expenditures authorized in Sec. 2 of this act:

* * *

(22) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 5(a) (County courthouses, ADA compliance, repairs and upgrades):

\$2,079.09

(23) of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 5(b) (County courthouses, ADA compliance, repairs and upgrades):

\$18,688.70

(24) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 4(b)(1) (UVM Health Lab, colocation):

\$383.90

(25) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 5(b) (Lamoille County Courthouse, planning):

\$540.00

(26) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 2(b) (Woodside Juvenile Rehabilitation Center, project design and planning):

\$52,003.54

(27) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 5 (Judiciary, ADA compliance, county courthouses):

\$157,394.00

(28) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 13(b) (Robert H. Wood Vermont Fire Academy, burn building):

\$10,646.82

(29) of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 8 (Lyndon State College):

\$48,634.00

(30) of the amount appropriated in 2016 Acts and Resolves No. 160, Sec. 11 (Public safety, Waterbury State Office Complex, blood analysis laboratory, renovations):

\$252,085.35

(31) of the amount appropriated in 2017 Acts and Resolves No. 84, Sec. 2 (Department of Libraries, centralized facility renovation):

\$447,739.00

* * *

(d) The following unexpended funds appropriated to the Agency of Natural Resources for capital construction projects are reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

* * *

(4) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 11(a)(1) (water pollution control):

\$8,221.85

(5) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 11(a)(8) (municipal pollution control grants, Waterbury):

\$136,824.00

(e) The following unexpended funds appropriated to the Agency of

Commerce and Community Development for capital construction projects are reallocated to defray expenditures authorized in Sec. 5(d) of this act, placement and replacement of historic site markers:

(1) of the amount appropriated in 2013 Acts and Resolves No. 51, Sec. 6(a)(2) (Bennington monument, structural repairs and ADA compliance):
\$1,224.51

(2) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 6(b) (Bennington monument, elevator, roof repairs): \$1,997.73

(3) of the amount appropriated in 2015 Acts and Resolves No. 26, Sec. 6(c) (Bennington monument, elevator, roof repairs): \$6,469.60

(f) Of the amount appropriated in 2011 Acts and Resolves No. 40, Sec. 3 (cellular and broadband infrastructure) to the Vermont Telecommunications Authority for capital construction projects, the amount of \$1,972,322.98 in unexpended funds is reallocated to the Department of Buildings and General Services to defray expenditures authorized in Sec. 2 of this act:

Total Reallocations and Transfers – Section 18
\$14,822,286.78 \$17,939,541.85

Sec. 16. 2017 Acts and Resolves No. 84, Sec. 19 is amended to read:

Sec. 19. GENERAL OBLIGATION BONDS AND APPROPRIATIONS

(a) The State Treasurer is authorized to issue general obligation bonds in the amount of \$132,460,000.00 for the purpose of funding the appropriations of this act. The State Treasurer, with the approval of the Governor, shall determine the appropriate form and maturity of the bonds authorized by this section consistent with the underlying nature of the appropriation to be funded. The State Treasurer shall allocate the estimated cost of bond issuance or issuances to the entities to which funds are appropriated pursuant to this section and for which bonding is required as the source of funds, pursuant to 32 V.S.A. § 954.

(b) The State Treasurer is authorized to issue additional general obligation bonds in the amount of \$10,936,961.00 that were previously authorized but unissued under this act for the purpose of funding the appropriations of this act.

Total Revenues – Section 19
\$132,460,000.00 \$143,396,961.00

Sec. 17. 2017 Acts and Resolves No. 84, Sec. 20 is amended to read:

Sec. 20. PROPERTY TRANSACTIONS; MISCELLANEOUS

* * *

~~(b) The Commissioner of Buildings and General Services is authorized to sell the Rutland Multi-Modal Transit Center (parking garage) located at 102 West Street in Rutland pursuant to the requirements of 29 V.S.A. § 166. The proceeds from the sale shall be appropriated to future capital construction projects. [Repealed.]~~

(c) The Commissioner of Buildings and General Services is authorized to sell or transfer the buildings and adjacent land located at 1987 Rockingham Road in Rockingham (Troop Headquarters and Garage) pursuant to the requirements of 29 V.S.A. § 166; provided, however, that if a transfer occurs, the buildings and adjacent land may only be transferred to another State agency for a State use. If the buildings and adjacent land are sold, the proceeds from the sale shall be appropriated to future capital construction projects and expended within two years after the date of sale.

(d) The Commissioner of Buildings and General Services is authorized to sell the Rutland Multi-Modal Transit Center (parking garage) located at 102 West Street in Rutland pursuant to the requirements of 29 V.S.A. § 166. The proceeds from the sale shall be appropriated to future capital construction projects and expended within two years after the date of sale.

(e)(1) Notwithstanding 29 V.S.A. § 166(b), the Department of Buildings and General Services is authorized to sell or transfer to the City of Newport a portion of the remaining lands of the State of Vermont and boardwalk located north of the Emory A. Hebard State Office Building. The land and boardwalk to be sold or transferred is described as being the land north of the bike path up to the approximate shoreline of Lake Memphremagog, bounded on the west by lands owned by the City of Newport and the Northern VT Railroad Co., Inc, bounded on the east by lands owned by the City of Newport, and bounded on the south by the right-of-way retained by Newport & Richford R.R.

(2) On or before October 1, 2018, the Commissioner of Buildings and General Services shall have a survey prepared to more particularly describe and delineate the land and boardwalk to be sold or transferred that is described in subdivision (1) of this subsection.

Sec. 18. 2012 Acts and Resolves, No. 104, Sec. 14, amending 2011 Acts and Resolves, No. 40, Sec. 26, is further amended to read:

Sec. 16. Sec. 26 of No. 40 of the Acts of 2011 is amended to read:

Sec. 26. PROPERTY TRANSACTIONS; MISCELLANEOUS

~~(a) The commissioner of buildings and general services may sell the Asa Bloomer State Office Building and the Rutland Multi-Modal Transit Center in accordance with the requirements of 29 V.S.A. § 166(d) and following negotiations with the City of Rutland. If negotiations with the city result in the~~

~~city's management of the Transit Center, the commissioner may use \$81,000 in unexpended capital funds previously appropriated to the department for other purposes to purchase a flexible parking machine for the Transit Center. It is the intent of the general assembly that state offices remain downtown. [Repealed.]~~

* * *

Sec. 19. 2013 Acts and Resolves No. 1, Sec. 100(c), as amended by 2014 Acts and Resolves No. 179, Sec. E.113.1, 2015 Acts and Resolves No. 58, Sec. E.113.1, and 2017 Acts and Resolves No. 84, Sec. 29, is further amended to read:

(c) Sec. 97 (general obligation debt financing) shall take effect on ~~July 1, 2018~~ July 1, 2019.

* * * Human Services * * *

Sec. 20. AGENCY OF HUMAN SERVICES; FACILITIES PLAN; UPDATE

On or before February 1, 2019, the Secretary of Human Services, in consultation with the Commissioner of Buildings and General Services, shall update the facilities plan and recommendations required by 2017 Acts and Resolves No. 84, Sec. 31, taking into consideration changes proposed in the 2017 legislative session. The Agency's update shall include a review of the populations and bed capacity needs described in 2017 Acts and Resolves No. 84, Sec. 31.

* * * Labor * * *

Sec. 21. 2017 Acts and Resolves No. 84, Secs. 33a and 33b are added to read:

Sec. 33a. ADULT CAREER AND TECHNICAL EDUCATION
EQUIPMENT GRANT PILOT PROGRAM

(a) The General Assembly hereby establishes a pilot grant program to authorize the Department of Labor, in consultation with the State Workforce Development Board, to administer the Adult Career and Technical Education Equipment Grant Pilot Program to support the purchase of equipment necessary for the delivery of occupational training for students enrolled in a postsecondary course offered by Vermont's Career and Technical Education Centers.

(b) An applicant's training program shall qualify for a grant described in subsection (a) of this section if it includes all of the following requirements:

(1) meets current occupational demand, as evidenced by current labor market information;

(2) aligns with a career pathway or set of stackable credentials involving

a college or university accredited in Vermont;

(3) guarantees delivery of equipment to more than one region of the State;

(4) is supported with a business or industry partnership;

(5) sets forth how equipment will be maintained, insured, shared, and transported, if applicable; and

(6) is endorsed by the Adult Career and Technical Education Association.

(c) Grants awarded under this program shall be used to purchase capital-eligible equipment. Grants shall not be used to support curriculum development, instruction, or program administration.

(d) On or before July 15, 2018, the Department shall develop and publish a simplified grant application that meets the criteria described in subsection (b) of this section. The Department shall consult with the Agency of Education and the State Workforce Development Board in reviewing applications and selecting grantees.

(e) Grantees shall have ownership over any share of equipment purchased with the use of these funds. Any equipment purchased from this program may also be used by secondary career technical education programs.

(f) On or before February 15, 2019, the Department of Labor shall submit a report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions that includes the following:

(1) how the funds were used, expected outcomes, recommended performance metrics to ensure success of the program, and any other relevant information that would inform future decisions about the use of this program;

(2) assessment of the functionality and accessibility of shared-equipment agreements; and

(3) how, and the extent to which, the program shall be funded in the future.

* * * Sunset of Adult Career and Technical Education
Equipment Grant Program * * *

Sec. 33b. REPEAL OF ADULT CAREER AND TECHNICAL
EDUCATION EQUIPMENT GRANT PROGRAM

The Adult Career and Technical Education Equipment Grant Program established in Sec. 33a of this act shall be repealed on July 1, 2019.

* * * NATURAL RESOURCES * * *

Sec. 22. 3 V.S.A. § 2873(b) is amended to read:

(b) The Department ~~shall~~ may perform design and construction supervision services for major maintenance and capital construction projects for the Agency and all of its components.

Sec. 23. 2017 Acts and Resolves No. 84, Sec. 35b is added to read:

Sec. 35b. ALBURGH CEMETERY; LAND TRANSFER

(a) The Commissioner of Forests, Parks and Recreation may enter into an agreement with the Vermont Housing and Conservation Board and The Nature Conservancy to amend their easements not to exceed a total of one acre on land in the town of Alburgh that abuts the west side of the South Alburgh Cemetery to allow the State to convey that land to the Alburgh Cemetery Association.

(b) On or before January 15, 2019, the Commissioner shall report back to the House Committee on Corrections and Institutions and the Senate Committee on Institutions on whether the Vermont Housing and Conservation Board and The Nature Conservancy have amended their easements. If the easements have been amended, the Commissioner shall submit a proposal to the General Assembly, either by legislation or resolution, to approve the land transfer to the Alburgh Cemetery Association.

* * * School Safety and Security * * *

Sec. 24. 30 V.S.A. § 7051 is amended to read:

§ 7051. DEFINITIONS

As used in this chapter:

* * *

(14) “Dispatchable Location” means the location information delivered to the public safety answering point with a 911 call.

(15) “Enterprise Communications Systems (ECS)” means any networked communication system serving two or more stations, or living units, within an enterprise. ECS includes circuit-switched networks, such as multi-line telephone systems or legacy ECS, IP-enabled service, and cloud-based technology.

(16) “Station” means a telephone handset, customer premise equipment (CPE) or calling device that is capable of initiating a call to 911.

Sec. 25. 30 V.S.A. § 7057 is amended to read:

§ 7057. PRIVATELY OWNED TELEPHONE SYSTEMS ENTERPRISE COMMUNICATIONS SYSTEMS

Any ~~privately owned telephone system~~ enterprise communications system shall provide to those end users the same level of 911 service that other end users receive and shall provide ANI signaling, station identification data, including dispatchable location, and updates to Enhanced 911 databases under rules adopted by the Board. The Board may waive the provisions of this section for any ~~privately owned telephone system~~ enterprise communications system, provided that in the judgment of the Board, the owner of the system is actively engaged in becoming compliant with this section, is likely to comply with this section in a reasonable amount of time, and will do so in accordance with standards and procedures adopted by the Board by rule.

Sec. 26. 2017 Acts and Resolves No. 84, Secs. 36a and 37a are added to read:

Sec. 36a. SCHOOL SAFETY AND SECURITY GRANT PROGRAM

(a) Creation. There is created the School Safety and Security Grant Program to be administered by the Department of Public Safety to enhance safety and security in Vermont schools, as defined in 16 V.S.A. § 3447.

(b) Use of funds. Grants authorized in subsection (a) of this section shall be used for the planning, delivery, and installation of equipment for upgrades to existing school security equipment and new school security equipment identified through threat assessment planning and surveys designed to enhance building security.

(c) Guidelines. The following guidelines shall apply to capital grants for school safety measures:

(1) Grants shall be awarded competitively to schools for capital-eligible expenses to implement safety and security measures identified in a security assessment. Capital-eligible expenses may include video monitoring and surveillance equipment, intercom systems, window coverings, exterior and interior doors, locks, and perimeter security measures.

(2) Grants shall only be awarded after a security assessment has been completed by the Agency of Education and Department of Public Safety.

(3) The Program is authorized to award grants of up to \$25,000.00 per school.

(d) Administration. The Department of Public Safety, in coordination with the Agency of Education, shall administer and coordinate grants made pursuant to this section. Grant funds shall not be used to administer the Program.

(e) Reporting. The Department of Public Safety shall provide notice of any grants awarded under this section to the Chairs of the Senate Committee on Institutions and the House Committee on Corrections and Institutions.

* * * Sunset of School Security Grant Program * * *

Sec. 36b. REPEAL OF SCHOOL SECURITY GRANT PROGRAM

The School Safety and Security Grant Program established in Sec. 17 of this act shall be repealed on July 1, 2019.

* * * School Planning Grants * * *

Sec. 27. APPLICATIONS FOR PLANNING GRANTS FOR CAPITAL CONSTRUCTION; UNIFIED UNION SCHOOL DISTRICTS; SCHOOL CONSOLIDATION

(a) Applications for planning grants. The Secretary of Education shall accept applications for planning grants for capital construction that would result in the consolidation of student populations and the closure of at least one building pursuant to the provisions of this section.

(b) Districts eligible to apply. A district is eligible to apply for a planning grant under this section (eligible district) if it:

(1) is a unified union school district created by the affirmative votes of the electorate between June 30, 2015 and December 31, 2018;

(2) is either its own supervisory district or is a member district within a supervisory union;

(3) is fully operational or will be fully operational before July 2, 2019; and

(4) provides or has intended to provide education for students in the same grade, after becoming fully operational, by operating more than one school building offering that grade.

(c) Eligible projects.

(1) An eligible district can apply for a grant to reimburse the cost of architects, engineers, or other professional planning costs under this section if the proposed project will:

(A) consolidate the provision of education for all resident students in at least four grade levels into one existing building that will house those grades either by renovating or adding additional square-footage to that building or both; and

(B) result in the closure of at least one existing building that houses those grades in the year prior to the proposed consolidation of students.

(2) Notwithstanding the provisions of subdivision (1)(A) of this subsection, if an eligible district operates more than two schools providing education in the pertinent grades, then a project is eligible under this section if

the project will result in the closure of at least one school building and the consolidation of students into one or more remaining buildings.

(d) Process.

(1) An eligible district shall submit a written application to the Secretary of Education on or before October 1, 2018. The application shall specify the purpose of and need for the proposed eligible project, shall include educational specifications based upon a facility analysis and enrollment projections, and shall concisely provide details addressing the ways in which the proposed project:

(A) will cause the eligible district to provide education in a manner that is more educationally appropriate;

(B) will cause the eligible district to provide education in a manner that provides greater educational opportunities in a more equitable manner;

(C) will result in or lead to sustained financial savings for the eligible district;

(D) will result in or lead to more efficient use of statewide education funds;

(E) will result in improvements that comply with standards for school construction adopted by the Division of Fire Safety, the Agency of Natural Resources, the Division for Historic Preservation, the Department of Health, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and any standards of other State or federal agencies and local or regional planning authorities; and

(F) will incorporate recommendations received after consultation with the School Energy Management Program and Efficiency Vermont, as appropriate.

(2) The Secretary, in consultation with other public and private entities at the Secretary's discretion, shall evaluate and rank all eligible projects based upon the proposed project's ability:

(A) to promote the goals outlined in subdivision (1) of this subsection (d);

(B) to support increased connectivity, energy efficiency, and use of renewable resources; and

(C) to cease using buildings that are inappropriate for direct instruction due to, for example, conditions that threaten the health or safety of students or employees, difficulty in complying with the requirements of the Americans with Disabilities Act or other State or federal laws or regulations,

or excessive energy use.

(3) On or before January 15, 2019, the Secretary shall present a prioritized list of eligible projects to the General Assembly together with a request for capital funding not to exceed a total of \$300,000.00 to provide planning grants for some or all projects on the list. Nothing shall prohibit the Secretary from declining to include one or more projects on the prioritized list if the Secretary, in his or her sole judgment, determines that the project does not sufficiently promote the goals outlined in subdivision (1) of this subsection.

(e) Disclaimers. Nothing in this section shall be construed:

(1) to guarantee that the General Assembly shall appropriate funds during the 2019 Legislative Session or after for planning grants contemplated by this section; or

(2) to suggest that the General Assembly intends to lift the suspension of state aid for school construction imposed by 2013 Acts and Resolves No. 51, Sec. 45.

* * * Effective Date * * *

Sec. 28. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 27, 2018, pages 861-864 and March 28, 2018, page 886)

Reported favorably by Senator McCormack for the Committee on Appropriations.

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Institutions.

(Committee vote: 7-0-0)

House Proposals of Amendment to Senate Proposals of Amendment

H. 143

An act relating to automobile insurance requirements and transportation network companies

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

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

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly that this act is a step toward uniform regulation of all vehicle for hire companies and vehicle for hire drivers in Vermont.

Sec. 2. 23 V.S.A. chapter 10 is added to read:

CHAPTER 10. TRANSPORTATION NETWORK COMPANIES

§ 750. DEFINITIONS; INSURANCE REQUIREMENTS

(a) Definitions. As used in this chapter:

(1) “Digital network” or “network” means any online-enabled application, software, website, or system offered or used by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

(2) “Personal vehicle” means a vehicle that is:

(A) used by a driver to provide a prearranged ride;

(B) owned, leased, or otherwise authorized for use by the driver; and

(C) not a taxicab, limousine, or other for-hire vehicle.

(3) “Prearranged ride” or “ride” means the transportation provided by a driver to a transportation network company rider, beginning when a driver accepts the rider’s request for a ride through a digital network controlled by a company; continuing while the driver transports the rider; and ending when the last rider departs from the vehicle. The term does not include:

(A) shared-expense carpool or vanpool arrangements;

(B) use of a taxicab, limousine, or other for-hire vehicle;

(C) use of a public or private regional transportation company that operates along a fixed route; or

(D) a ride furnished through a broker using a publicly funded network to connect riders to drivers through the Elders and Persons with Disabilities Program, Medicaid Non-Emergency Medical Transportation Program, or other similar governmental transportation program.

(4) “Transportation network company” or “company” means a person that uses a digital network to connect riders to drivers who provide prearranged rides.

(5) “Transportation network company driver” or “driver” means an individual who:

(A) receives connections to potential riders and related services from

a transportation network company in exchange for payment of a fee to the company; and

(B) uses a personal vehicle to offer or provide a prearranged ride to riders upon connection through a digital network controlled by a transportation network company in exchange for compensation or payment of a fee.

(6) “Transportation network company rider” or “rider” means an individual who uses a company’s digital network to connect with a driver who provides rides in his or her personal vehicle between points chosen by the rider.

(b) Company’s financial responsibility.

(1) Beginning on July 1, 2018, a driver, or company on the driver’s behalf, shall maintain primary automobile insurance that recognizes that the driver is a company driver or otherwise uses a vehicle to transport passengers for compensation and covers the driver while the driver is logged on to the company’s digital network or while the driver is engaged in a prearranged ride.

(2)(A) The following automobile insurance requirements shall apply while a participating driver is logged on to the transportation network company’s digital network and is available to receive transportation requests but is not engaged in a prearranged ride:

(i) primary automobile liability insurance in the amount of at least \$50,000.00 for death and bodily injury per person, \$100,000.00 for death and bodily injury per incident, and \$25,000.00 for property damage; and

(ii) any other State-mandated coverage under section 941 of this title.

(B) The coverage requirements of this subdivision (2) may be satisfied by any of the following:

(i) automobile insurance maintained by the driver;

(ii) automobile insurance maintained by the company; or

(iii) any combination of subdivisions (i) and (ii) of this subdivision (2)(B).

(3)(A) The following automobile insurance requirements shall apply while a driver is engaged in a prearranged ride:

(i) primary automobile liability insurance that provides at least \$1,000,000.00 for death, bodily injury, and property damage; and

(ii) uninsured and underinsured motorist coverage that provides at least \$1,000,000.00 for death, bodily injury, and property damage.

(B) The coverage requirements of this subdivision (3) may be satisfied by any of the following:

- (i) automobile insurance maintained by the driver;
- (ii) automobile insurance maintained by the company; or
- (iii) any combination of subdivisions (i) and (ii) of this subdivision (3)(B).

(4) If insurance maintained by a driver under subdivision (2) or (3) of this subsection has lapsed or does not provide the required coverage, insurance maintained by the company shall provide such coverage beginning with the first dollar of a claim and shall have the duty to defend such claim.

(5) Coverage under an automobile insurance policy maintained by the company shall not be dependent on a personal automobile insurer first denying a claim nor shall a personal automobile insurance policy be required to first deny a claim.

(6) Insurance required by this subsection may be placed with an insurer licensed under chapter 101 (insurance companies generally) or 138 (surplus lines insurance) of this title.

(7) Insurance satisfying the requirements of this subsection shall be deemed to satisfy the financial responsibility requirement for a motor vehicle under section 800 of this title.

(8) A driver shall carry proof of coverage satisfying this section at all times during use of a vehicle in connection with a company's digital network. In the event of an accident or traffic violation, a driver shall provide this insurance coverage information to the directly interested parties, automobile insurers, and law enforcement, upon request. Upon such request, a driver shall also disclose whether he or she was logged on to the network or was on a prearranged ride at the time of an accident or traffic violation.

(9) A person who fails to maintain primary automobile insurance as required in subdivisions (2) and (3) of this subsection (b) shall be assessed a civil penalty consistent with subsection 800(b) of this title, and such violation shall be a traffic violation within the meaning of chapter 24 of this title. A person who fails to carry proof of insurance as required under subdivision (8) of this subsection (b) shall be subject to a civil penalty consistent with subsection 800(d) of this title. Notwithstanding any provision of law to the contrary, a person who operates a vehicle without financial responsibility as required by this subsection (b) is subject to administrative action as set forth in chapter 11 of this title.

(c) Disclosures. A transportation network company shall disclose in

writing to its drivers the following before they are allowed to accept a request for a prearranged ride on the company's digital network:

(1) the insurance coverage, including the types of coverage and the limits for each coverage, that the company provides while the driver uses a personal vehicle in connection with the company's network; and

(2) that the driver's own automobile insurance policy, depending on its terms, might not provide any coverage while the driver is logged on to the company's network and available to receive transportation requests or engaged in a prearranged ride.

(d)(1) Automobile insurers. Notwithstanding any other provision of law to the contrary, insurers that write automobile insurance in Vermont may exclude any and all coverage afforded under a policy issued to an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a transportation network company's digital network or while a driver provides a prearranged ride. This right to exclude all coverage may apply to any coverage in an automobile insurance policy, including:

(A) liability coverage for bodily injury and property damage;

(B) personal injury protection coverage;

(C) uninsured and underinsured motorist coverage;

(D) medical payments coverage;

(E) comprehensive physical damage coverage; and

(F) collision physical damage coverage.

(2) Nothing in this subsection implies or requires that a personal automobile insurance policy provide coverage while the driver is logged on to a company's digital network, while the driver is engaged in a prearranged ride, or while the driver otherwise uses a vehicle to transport passengers for compensation.

(3) Nothing in this section shall be construed to require an insurer to use any particular policy language or reference to this section in order to exclude any and all coverage for any loss or injury that occurs while a driver is logged on to a company's digital network or while a driver provides a prearranged ride.

(4) Nothing in this subsection is deemed to preclude an insurer from providing primary or excess coverage for the driver's vehicle, if it chooses to do so by contract or endorsement.

(5) Insurers that exclude the coverage described under subsection (b) of this section shall have no duty to defend or indemnify any claim expressly

excluded thereunder.

(6) Nothing in this section is deemed to invalidate or limit an exclusion contained in a policy, including any policy in use or approved for use in Vermont prior to the enactment of this section, that excludes coverage for vehicles used to carry persons or property for a charge or available for hire by the public.

(7) An insurer that defends or indemnifies a claim against a driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide automobile insurance to the same driver in satisfaction of the coverage requirements of subsection (b) of this section at the time of loss.

(8) In a claims coverage investigation, transportation network companies shall immediately provide, upon request by directly involved parties or any insurer of the transportation network company driver, if applicable, the precise times that a transportation network company driver logged on and off the transportation network company's digital network in the 12-hour period immediately preceding and in the 12-hour period immediately following the accident. Insurers providing coverage under subsection (b) of this section shall disclose, upon request by any other insurer involved in the particular claim, the applicable charges, exclusions, and limits provided under any automobile insurance maintained in order to satisfy the requirements of subsection (b) of this section.

§ 751. DRIVER REQUIREMENTS; BACKGROUND CHECKS

(a) A company shall not allow an individual to act as a driver on the company's network without requiring the individual to submit to the company an application that includes:

(1) the individual's name, address, and date of birth;

(2) a copy of the individual's driver's license;

(3) a copy of the registration for the personal vehicle that the individual will use to provide prearranged rides; and

(4) proof of financial responsibility for the personal vehicle described in subdivision (3) of this subsection of a type and in the amounts required by the company.

(b)(1) A company shall not allow an individual to act as a driver on the company's network unless, with respect to the driver, the company:

(A) contracts with an accredited entity to conduct a local, State, and national background check of the individual, including the multistate-multijurisdiction criminal records locator or other similar national database,

the U.S. Department of Justice national sex offender public website, and the Vermont sex offender public website;

(B) confirms that the individual is at least 18 years of age and, if the individual is 18 years of age, he or she has at least one year of driving experience or has been issued a commercial driver license; and

(C) confirms that the individual possesses proof of registration, automobile liability insurance, and proof of inspection if required by the state of vehicle registration for the vehicle to be used to provide prearranged rides.

(2) The background checks required by this subsection shall be conducted annually by the company.

(3) With respect to a person who is a driver as of the effective date of this act, the requirements of subdivision (1)(A) of this subsection (b) shall be deemed satisfied if the background check is completed within 30 days of the effective date of this act or if a background check that satisfies the requirements of subdivision (1)(A) of this subsection (b) was conducted by the company on or after July 1, 2017. This subdivision shall not be construed to exempt drivers from undergoing an annual background check as required under subdivision (2) of this subsection (b).

(c) A company shall not allow an individual to act as a driver on the company's network if the company knows or should know that the individual:

(1) has been convicted within the last seven years of:

(A) a listed crime as defined in 13 V.S.A. § 5301(7);

(B) a felony level violation of 18 V.S.A. chapter 84 for selling, dispensing, or trafficking a regulated drug;

(C) a violation of section 1201 (operating a vehicle while under the influence of alcohol or drugs) of this title;

(D) a felony violation of 13 V.S.A. chapter 47 (frauds) or 57 (larceny and embezzlement); or

(E) a comparable offense in another jurisdiction;

(2) has been convicted within the last three years of:

(A) more than three moving violations as defined in subdivision 4(44) of this title;

(B) grossly negligent operation of a motor vehicle in violation of section 1091 of this title or operating with a suspended or revoked license in violation of section 674 of this title; or

(C) a comparable offense in another jurisdiction;

(3) has been subject to a civil suspension within the last seven years under section 1205 (operating a vehicle while under the influence of alcohol or drugs) of this title; or

(4) is listed on the U.S. Department of Justice national sex offender public website or the Vermont sex offender public website or has been convicted of homicide, manslaughter, kidnapping, or an offense involving sexual exploitation of children in violation of 13 V.S.A. chapter 64.

(d) A company shall establish and enforce a zero tolerance policy for drug and alcohol use by drivers during any period when a driver is engaged in, or is logged into the company's network but is not engaged in, a prearranged ride. The policy shall include provisions for investigations of alleged policy violations and the suspension of drivers under investigation.

(e) A company shall require that a personal vehicle used to provide prearranged rides complies with all applicable laws and regulations concerning vehicle equipment.

§ 752. RECORDS; INSPECTION

(a) The Commissioner of Motor Vehicles or designee, not more frequently than once per year, shall visually inspect a random sample of up to 25 drivers' records per company demonstrating compliance with the requirements of this chapter. The records inspected pursuant to this section shall pertain to drivers operating in Vermont. A company shall have an ongoing duty to make such records available for inspection under this section during reasonable business hours and in a manner approved by the Commissioner.

(b) The Commissioner or designee may visually inspect additional random samples of drivers' records if there is a reasonable basis to suspect that a company is not in compliance with this chapter. The records inspected pursuant to this section shall pertain to drivers operating in Vermont.

(c) If the Commissioner receives notice of a complaint against a company or a driver, the company shall cooperate in investigating the complaint, including producing any necessary records.

(d) Any records, data, or information disclosed to the Commissioner by a company, including the names, addresses, and any other personally identifiable information regarding drivers, are exempt from inspection and copying under the Public Records Act and shall not be released.

§ 753. ENFORCEMENT; ADMINISTRATIVE PENALTIES

(a) The Commissioner of Motor Vehicles may impose an administrative penalty pursuant to this section if a company violates a provision of this chapter.

(b) A violation may be subject to an administrative penalty of not more than \$500.00. Each violation is a separate and distinct offense and, in the case of a continuing violation, each day's continuance may be deemed a separate and distinct offense.

(c) The company shall be given notice and opportunity for a hearing for alleged violations under this section. Service of the notice shall be sufficient if sent by first class mail to the applicable address on file with the Secretary of State. The notice shall include the following:

- (1) a factual description of the alleged violation;
- (2) a reference to the particular statute allegedly violated;
- (3) the amount of the proposed administrative penalty; and

(4) a warning that the company will be deemed to have waived its right to a hearing and that the penalty will be imposed if no hearing is requested within 15 days from the date of the notice.

(d) A company that receives notice under subsection (c) of this section shall be deemed to have waived the right to a hearing unless, within 15 days from the date of the notice, the company requests a hearing in writing. If the company waives the right to a hearing, the Commissioner shall issue a final order finding the company in default and imposing the penalty.

(e) The provisions of sections 105, 106, and 107 of this title shall apply to hearings conducted under this section.

(f) The Commissioner may collect an unpaid administrative penalty by filing a civil action in Superior Court or through any other means available to State agencies.

(g) The remedies authorized by this section shall be in addition to any other civil or criminal remedies provided by law for violation of this chapter.

§ 754. PREEMPTION; SAVINGS CLAUSE

(a) Municipal ordinances, resolutions, or bylaws regulating transportation network companies are preempted to the extent they are inconsistent with the provisions of this chapter.

(b) Subsection (a) of this section shall not apply to a municipal ordinance, resolution, or bylaw regulating transportation network companies adopted by a municipality with a population of more than 35,000 residents based on the 2010 census and in effect on July 1, 2017. This subsection shall be repealed on July 1, 2020.

Sec. 3. STUDY; STATEWIDE REGULATION OF VEHICLES FOR HIRE

(a) The Commissioner of Financial Regulation, in consultation with the Commissioner of Motor Vehicles, the Director of the Office of Professional Regulation, and representatives from other State agencies and departments, as the Commissioner deems necessary, and with input from the Vermont League of Cities and Towns and industry and consumer stakeholders, including representatives of transportation network companies (TNCs) and non-TNC companies and career drivers, shall conduct a study of whether and to what extent vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be regulated by the State, and how State regulations would affect relevant municipal regulations. Among other things, the Commissioner shall consider:

(1) issues related to public safety, necessity, and convenience;

(2) regulatory models adopted in other state and local jurisdictions, including in both urban and rural municipalities in Vermont, applicable to transportation network companies and other vehicle for hire companies;

(3) matters related to passenger safety, including driver background checks, periodic vehicle safety inspections, and signage;

(4) matters related to insurance coverage, including minimum liability coverage, disclosure requirements, and claims procedures, generally, and with consideration of other, similarly situated jurisdictions, other commercial automobile policy requirements, enhanced personal liability coverage for drivers, and the costs and benefits of requiring Med Pay coverage;

(5) matters related to fares, including the provision of fare estimates to riders, restrictions on “surge pricing,” and payment methods;

(6) matters such as the licensing or permitting of companies and drivers; nondiscrimination street hails; the protection of driver and rider information; taxes or fees and, if applicable, recommended amounts; the employment status of drivers; and increased access for people with disabilities;

(7) the extent to which all vehicles for hire, vehicle for hire drivers, and vehicle for hire companies should be treated similarly with respect to statewide regulation; and

(8) any other matter deemed relevant by the Commissioner and the Director.

(b) For purposes of this section, a “vehicle for hire” is a passenger vehicle transporting passengers for compensation of any kind. Vehicles for hire include taxicabs, transportation network company vehicles, limousines, jitneys, car services, contract vehicles, shuttle vans, and other such vehicles transporting passengers for compensation of any kind except:

(1) those which an employer uses to transport employees;

(2) those which are used primarily to transport elderly, special needs and handicapped persons for whom special transportation programs are designed and funded by State, federal, or local authority otherwise exempted pursuant to 23 V.S.A. § 4(15);

(3) buses, trolleys, trains, or similar mass transit vehicles;

(4) courtesy vehicles for which the passenger pays no direct charge, such as hotel or car dealer shuttle vans.

(c) On or before December 15, 2018, the Commissioner shall submit a progress report outlining his or her findings and recommendations to the Chairs of the Senate Committees on Transportation, on Judiciary, and on Finance and the House Committees on Transportation, on Judiciary, and on Commerce and Economic Development.

(d) On or before January 15, 2019, the Commissioner shall submit a final report of his or her findings and recommendations to the Senate Committees on Transportation, on Judiciary, and on Finance and the House Committees on Transportation, on Judiciary, and on Commerce and Economic Development.

Sec. 4. TNC INSURANCE REQUIREMENTS; STUDY

(a) The Commissioner of Financial Regulation shall conduct a study regarding the statutory minimum levels of financial responsibility applicable to transportation network companies (TNC) in Vermont, in particular, the minimums required under 23 V.S.A. § 750(b)(2)(A)(i) (the so-called “gap period”). The purpose of the study is to ensure these requirements correlate with potential liability exposure so that persons are made whole in the event of an automobile accident involving a transportation network company driver.

(b) Consistent with the purpose of this section, and in a form and manner prescribed by the Commissioner, each TNC company doing business in Vermont shall submit claims data elements necessary to inform the Commissioner’s determination with respect to the appropriateness of the statutory minimum levels of financial responsibility. Any data disclosed to the Commissioner by a company pursuant to this section are exempt from inspection and copying under the Public Records Act and shall not be released.

(c) On or before January 15, 2019, the Commissioner shall report his or her aggregated findings and recommendations to the House Committees on Commerce and Economic Development and on Judiciary and the Senate Committees on Judiciary and on Finance.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2018.

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

An act relating to transportation network companies.

H. 874

An act relating to inmate access to prescription drugs

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

First: In Sec. 1, 28 V.S.A. § 801, after the section heading “MEDICAL CARE OF INMATES” by inserting the following:

* * *

(b)(1) Upon admission to a correctional facility for a minimum of 14 consecutive days, each inmate shall be given a physical assessment unless extenuating circumstances exist.

(2) Within 24 hours after admission to a correctional facility, each inmate shall be screened for substance use disorders as part of the initial and ongoing substance use screening and assessment process. This process includes screening and assessment for opioid use disorders.

Second: In Sec. 1, 28 V.S.A. § 801(e)(1), after the words “Except as otherwise provided in this subsection, an” by striking “offender” and inserting in lieu thereof the following: ~~offender~~ inmate

Third: In Sec. 1, 28 V.S.A. § 801(e)(1), after the words “prescription monitoring or information system” by inserting the following: , including buprenorphine, methadone, or other medication prescribed in the course of medication-assisted treatment,

Fourth: In Sec. 1, 28 V.S.A. § 801(e), after subdivision (4), by inserting a subdivision (5) to read as follows:

(5) As used in this subchapter:

(A) “Medically necessary” describes health care services that are appropriate in terms of type, amount, frequency, level, setting, and duration to the individual’s diagnosis or condition, are informed by generally accepted medical or scientific evidence, and are consistent with generally accepted practice parameters. Such services shall be informed by the unique needs of each individual and each presenting situation, and shall include a determination that a service is needed to achieve proper growth and development or to prevent the onset or worsening of a health condition.

(B) “Medication-assisted treatment” shall have the same meaning as in 18 V.S.A. § 4750.

Fifth: By inserting after Sec. 1 a new section to be Sec. 1a to read as follows:

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

§ 4750. DEFINITION

As used in this chapter, “medication-assisted treatment” means the use of U.S. Federal Drug Administration-approved medications, in combination with counseling and behavioral therapies, to provide a whole patient approach to the treatment of substance use disorders.

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 Utility Commission shall be fully and separately acted upon.

Alicia Sacerio Humbert of Northfield – Family Division Magistrate – By Senator Benning for the Committee on Judiciary. (5/3/18)

Megan J. Shafritz of South Burlington – Superior Judge – By Senator Nitka for the Committee on Judiciary. (5/3/18)

Andrew Hathaway of Waterbury – Member, Children and Family Council for Prevention Programs – By Senator Cummings for the Committee on Health and Welfare. (4/19/18)