

House Calendar

Monday, May 06, 2019

118th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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ACTION CALENDAR

Action Postponed Until May 7, 2019

Senate Proposal of Amendment

H. 133

An act relating to miscellaneous energy subjects

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

* * * Report Consolidation * * *

Sec. 1. 30 V.S.A. § 203a is amended to read:

§ 203a. FUEL EFFICIENCY FUND

* * *

~~(c) Report. On or before January 15, 2010, and annually thereafter, the Department of Public Service shall report to the General Assembly on the expenditure of funds from the Fuel Efficiency Fund to meet the public's needs for energy efficiency services. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection. [Repealed.]~~

* * *

Sec. 2. 2012 Act and Resolves No. 165, Sec. 2 is amended to read:

Sec. 2. MEMORANDUM OF UNDERSTANDING; SMALL
HYDROELECTRIC PROJECTS

* * *

~~(e) No later than January 15, 2014 and annually by each second January 15 thereafter, the commissioner shall submit a written report to the general assembly detailing the progress of the MOU program, including an identification of each hydroelectric project participating in the program. After five hydroelectric projects participating in the program are approved and commence operation, reports filed under this subsection shall evaluate and provide lessons learned from the program, including recommendations, if any, on how to improve procedures for obtaining approval of micro hydroelectric projects (100 kilowatts capacity or less). The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be submitted under this subsection. [Repealed.]~~

* * *

Sec. 3. 30 V.S.A. § 8105 is amended to read:

§ 8105. REPORTING

~~(a) A host community for which a Vermont village green renewable project has been certified under this chapter shall file a report to the Commission and the Commissioner of Public Service by December 31 of each year following certification. The report shall contain such information as is required by the Commission and the Commissioner. The report shall include at a minimum sufficient information for the Commissioner of Public Service to submit the report required by subsection (b) of this section.~~

~~(b) Beginning on March 1, 2010, and annually thereafter, the Commissioner of Public Service shall submit a report to the Senate Committees on Economic Development, Housing and General Affairs, on Finance, and on Natural Resources and Energy, and the House Committees on Ways and Means, on Commerce and Economic Development, and on Energy and Technology, and the Governor, which shall include an update on progress made in the development of the Vermont village green renewable projects authorized under this chapter. The report also shall include an analysis of the costs and benefits of the projects as well as any recommendations consistent with the purposes of this chapter. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection. [Repealed.]~~

Sec. 4. 30 V.S.A. § 202b is amended to read:

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

* * *

(e) The Commissioner of Public Service (Commissioner) shall file an annual report on progress in meeting the goals of the Plan. The report shall address each of the following sectors of energy consumption in the State: electricity, nonelectric fuels for thermal purposes, and transportation. In preparing the report, the Commissioner shall consult with the Secretaries of Administration, of Agriculture, Food and Markets, of Natural Resources, and of Transportation and the Commissioner of Buildings and General Services.

* * *

(7) The report shall include any activity that occurs under the Vermont Small Hydropower Assistance Program, the Vermont Village Green Program, and the Fuel Efficiency Fund.

Sec. 5. 30 V.S.A. § 8005b is amended to read:

§ 8005b. RENEWABLE ENERGY PROGRAMS; REPORTS

(a) The Department shall file reports with the General Assembly in accordance with this section.

* * *

(2) The Department shall ~~file the report under~~ include the components of subsection (b) of this section annually each January 15 in its Annual Energy Report required under subsection 202b(e) of this title commencing in 2018 2020 through 2033.

(3) The Department shall ~~file the report under~~ include the components of subsection (c) of this section biennially each March 1 in its Annual Energy Report required under subsection 202b(e) of this title biennially commencing in 2017 2020 through 2033.

* * *

(c) The biennial report under this section shall include at least each of the following:

* * *

(2) Commencing with the report to be filed in 2019, each retail electricity provider's required amount of renewable energy during the two preceding ~~calendar~~ years using the most recent available data for each category of the RES as set forth in section 8005 of this title.

* * *

Sec. 6. 30 V.S.A. § 8010 is amended to read:

§ 8010. SELF-GENERATION AND NET METERING

* * *

(d) ~~On or before January 15, 2020 and every third January 15 thereafter~~ Commencing in 2021 and biennially thereafter, the Department shall submit to the Commission ~~a report that evaluates~~ its evaluation of the current state of net metering in Vermont, which shall be included within the Department's Annual Energy Report required under subsection 202b(e) of this title and shall also be submitted to the Committees listed under subdivision 202b(e)(2) of this title. ~~The Department shall make this report publicly available. The report evaluation shall:~~

* * *

* * * Connectivity Fund * * *

Sec. 7. 30 V.S.A. § 202f is amended to read:

§ 202f. TELECOMMUNICATIONS AND CONNECTIVITY ADVISORY BOARD

(a) There is created the Telecommunications and Connectivity Advisory Board for the purpose of making recommendations to the Commissioner of Public Service regarding his or her telecommunications responsibilities and duties as provided in this section. The Connectivity Advisory Board shall consist of eight members, ~~seven voting and one nonvoting~~, selected as follows:

- (1) the State Treasurer or designee;
- (2) the Secretary of Commerce and Community Development or designee;
- (3) five at-large members appointed by the Governor, who shall not be employees or officers of the State at the time of appointment; and
- (4) the Secretary of Transportation or designee, ~~who shall be a nonvoting member.~~

* * *

(h) ~~On September 15, 2015~~ November 15, 2019, and annually thereafter, the Commissioner shall submit to the Connectivity Advisory Board an accounting of monies in the Connectivity Fund and anticipated revenue for the next year. ~~On or before January 1 of each year, the Commissioner, after consulting with the Connectivity Advisory Board, shall recommend to the relevant legislative committees of jurisdiction a plan for apportioning such funds to the High-Cost Program and the Connectivity Initiative.~~

* * *

Sec. 8. 30 V.S.A. § 7516 is amended to read:

§ 7516. CONNECTIVITY FUND

There is created a Connectivity Fund for the purpose of providing support to the High-Cost Program established under section 7515 of this chapter and the Connectivity Initiative established under section 7515b of this chapter. The fiscal agent shall determine annually, on or before ~~September~~ November 1, the amount of monies available to the Connectivity Fund. Such funds shall be apportioned as follows: 45 percent to the High-Cost Program and 55 percent to the Connectivity Initiative.

* * * Dig Safe * * *

Sec. 9. 30 V.S.A. § 7001 is amended to read:

§ 7001. DEFINITIONS

In this chapter:

(1) “Commission” means the Public Utility Commission under section 3 of this title.

(2) “Company” means any public utility ~~company which~~, municipality, or person that supplies gas, electricity, hot water, steam, or telecommunications service and ~~which that~~ maintains underground utility facilities, and any cable television company operating a cable television system as defined in section 501 of this title ~~and which that~~ maintains underground utility facilities.

(3) “Damage” includes the substantial weakening of structural or lateral support of an underground utility facility;₂ penetration or destruction of any underground utility facility’s protective coating, housing, or device;₂ or the partial or complete severance of any underground utility facility.

(4) “Excavation activities” means any activities involving that will disturb the subsurface of the earth or could damage underground utility facilities and that may involve the removal of earth, rock, or other materials in the ground, ~~disturbing the subsurface of the earth,~~ or the demolition of any structure,₅ by the discharge of explosives or the use of powered or mechanized equipment, including digging, trenching, blasting, boring, drilling, hammering, post driving, wrecking, razing, ~~or~~ tunneling, or pavement or concrete slab removal within 100 feet of an underground utility facility. Excavation activities shall not include the tilling of the soil for agricultural purposes, routine home gardening with hand tools outside easement areas and public rights-of-way, activities relating to routine public highway maintenance, or the use of hand tools by a company, or the company’s agent or a contractor working under the agent’s direction, to locate or service the company’s facilities, provided the company has a written damage prevention program.

(5) “Person” means any individual, trust, firm, joint stock company, corporation including a government corporation, partnership, association, state, municipality, commission, political subdivision of the ~~state~~ State, or any interstate body.

(6) “Public agency” means the State or any political subdivision thereof, including any governmental agency.

(7) “Approximate location of underground utility facilities” means a strip of land extending not more than 18 inches on either side of the underground utility facilities.

(8) “System” means the public utility underground facility damage prevention system referred to in section 7002 of this title.

(9) “Underground utility facility” or “facility” means any pipe, conduit, wire, or cable located beneath the surface of the earth and maintained by a company, including the protective covering of the pipe, conduit, wire, or cable, as well as any manhole, vault, ~~or pedestal,~~ or component maintained by a company.

(10) “Premark” means to identify the general scope of excavation activities using white paint, stakes, or other suitable white markings, in a manner that will enable the operators of the underground utility facilities to know the boundaries of the proposed excavation activities.

(11) “Powered or mechanized equipment” means equipment that is powered or energized by any motor, engine, or hydraulic or pneumatic device and that is used for excavation or demolition work.

(12) “Hand tools” means tools powered solely by human energy.

(13) “Verified” means the location and depth have been ~~physically determined by hand digging~~ visually determined using careful and prudent excavating techniques such as hand digging, water excavation, or other safe means.

(14) “Damage prevention program” means a program established to ensure employees involved in excavation activities are aware of and utilize appropriate and safe excavating practices.

Sec. 10. 30 V.S.A. § 7003 is amended to read:

§ 7003. RULEMAKING

The Commission shall adopt rules, pursuant to 3 V.S.A. chapter 25 relative to:

(1) minimum requirements for the operation of the System, including notification procedures and the reporting of underground utility facility locations;

(2) procedures for the investigation of complaints;

(3) emergency situations ~~for which notice of excavation activities is not required;~~

(4) uniform standards for the marking of the approximate location of underground utility facilities;

(5) uniform standards for the future installation of underground utility facilities, including the following:

(A) color coding of facilities;

- (B) depth requirements for the laying of facilities;
- (C) subsurface marking of facilities;
- (D) surface marking of facilities;
- (E) the filing of as-built plans of facilities with municipalities; and
- (F) capability for location of facilities by sensors;

(6) standards for the granting of exemptions under section 7002 of this title; and

(7) situations where the premarks cannot be found.

Sec. 11. 30 V.S.A. § 7004 is amended to read:

§ 7004. NOTICE OF EXCAVATION ACTIVITIES

(a) No person or company shall engage in excavation activities, except in an emergency situation as defined by the Commission, without premarking the proposed area of excavation activities and giving notice as required by this section.

(b) Prior to notifying the System, the person shall premark the area of proposed excavation activities in a manner that will enable operators of underground facilities to identify the boundaries of the proposed excavation activities.

(c) At least 48 hours, excluding Saturdays, Sundays, and legal holidays, but not more than 30 days before commencing excavation activities, each person required to give notice of excavation activities shall notify the System referred to in section 7002 of this title. Such notice shall set forth a reasonably accurate and readily identifiable description of the geographical location of the proposed excavation activities and the premarks.

~~(e)(d)~~ Notice to the System may be in writing or by telephone. For purposes of this section, the System shall provide a toll-free telephone number.

~~(d) Prior to notifying the System, the person must premark the area of proposed excavation activities in a manner that will enable operators of underground facilities to identify the boundaries of the proposed excavation activities. Premarking is not required if the actual excavation will be continuous and will exceed 500 feet in length.~~

(e) Notice of excavation activities shall be valid for an excavation site until one of the following occurs:

- (1) the excavation is not completed within 30 days of the notification;
- (2) the markings become faded, illegible, or destroyed; or

(3) the company installs new underground facilities in a marked area still under excavation.

Sec. 12. 30 V.S.A. § 7006b is amended to read:

§ 7006b. EXCAVATION AREA PRECAUTIONS

Any person engaged in excavating activities in the approximate location of underground utility facilities marked pursuant to section 7006 of this title shall take reasonable precautions to avoid damage to underground utility facilities, including any substantial weakening of the structural or lateral support of such facilities or penetration, severance, or destruction of such facilities. ~~When excavation activities involve horizontal or directional boring, the~~ The person engaged in excavation activities shall expose underground facilities to verify their location and depth, in a safe manner, at each location where the work will cross a facility and at reasonable intervals when paralleling an underground facility. Powered or mechanized equipment may only be used within the approximate location where the facilities have been verified.

Sec. 13. 30 V.S.A. § 7007 is amended to read:

§ 7007. NOTICE OF DAMAGE

When any underground utility facility is damaged during excavation activities, the excavator shall immediately notify the affected company. Under no circumstances shall the excavator backfill or conceal the damaged area until the company inspects and repairs the damage, provided that the excavator shall take reasonable and prudent actions to protect the public from serious injury from the damaged facilities until the company or emergency response personnel arrive at the damaged area. An excavator who causes damage to a pipeline that results in a release of natural or other gas or hazardous liquid shall promptly report the release to emergency responders by calling 911.

* * * Thermal Energy Funds * * *

Sec. 14. 30 V.S.A. § 209(e) is amended to read:

(e) Thermal energy and process fuel efficiency funding.

(1) Each of the following shall be used to deliver thermal energy and process fuel energy efficiency services in accordance with this section for unregulated fuels to Vermont consumers of such fuels. In addition, the Commission may authorize an entity appointed to deliver such services under subdivision (d)(2)(B) of this section to use monies subject to this subsection for the engineering, design, and construction of facilities for the conversion of thermal energy customers using fossil fuels to district heat if the majority of

the district's energy is from biomass sources, the district's distribution system is highly energy efficient, and such conversion is cost effective.

* * *

* * * Standard Offer Program Small Hydroelectric Power * * *

Sec. 15. 30 V.S.A. § 8005a(p) is amended to read:

(p) Existing hydroelectric plants. Notwithstanding any contrary requirement of this section, no later than January 15, 2013, the Commission shall make a standard offer contract available to existing hydroelectric plants in accordance with this subsection.

(1) In this subsection:

(A) "Existing hydroelectric plant" means a hydroelectric plant of five MW plant capacity or less that is located in the State, that was in service as of January 1, 2009, that is a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292, and that does not have an agreement with the Commission's purchasing agent for the purchase of its power pursuant to subdivision 209(a)(8) of this title and Commission rules adopted under subdivision (8). The term includes hydroelectric plants that have never had such an agreement and hydroelectric plants for which such an agreement has expired, ~~provided that the expiration date is prior to December 31, 2015.~~

(B) "LIHI" means the Low-Impact Hydropower Institute.

(2) The term of a standard offer contract under this subsection shall be 10 or 20 years, at the election of the plant owner.

(3) Unless inconsistent with applicable federal law, the price of a standard offer contract shall be ~~the lesser of the following~~ the sum of the following elements:

~~(A) \$0.08 per kWh, adjusted for inflation annually commencing January 15, 2013 using the CPI; or~~

~~(B) The sum of the following elements:~~

~~(i)(A)~~ a two-year rolling average of the ISO New England Inc. (ISO-NE) Vermont zone hourly locational marginal price for energy;

~~(ii)(B)~~ a two-year rolling average of the value of the plant's capacity in the ISO-NE forward capacity market;

~~(iii)(C)~~ the value of avoided line losses due to the plant as a fixed increment of the energy and capacity values;

~~(iv)(D)~~ a two-year rolling average of the market value of environmental attributes, including renewable energy credits; and

~~(v)(E)~~ the value of a 10- or 20-year contract.

(4) The Commission shall determine the price to be paid under this subsection (p) ~~no~~ not later than January 15, 2013.

(A)(i) Annually by January 15 commencing in 2014, the Commission shall recalculate and adjust the energy, and capacity, and environmental attribute elements of the price under subdivisions ~~(3)(B)(i) and (ii)~~ subdivision (3) of this subsection (p). The recalculated and adjusted energy, and capacity, and environmental attribute elements shall apply to all contracts executed under this subdivision, whether or not the contracts were executed prior to the adjustments.

(ii) the Commission may periodically adjust the value of environmental attributes that are applicable to an executed contract based upon whether the plant becomes certified by LIHI or loses such certification.

(B) With respect to the price elements specified in subdivisions ~~(3)(B)(iii)(3)(C)~~ (avoided line losses), ~~(iv) (environmental attributes)~~, and ~~(v)(E)~~ (value of long-term contract) of this subsection (p):

(i) These elements shall remain fixed at their values at the time a contract is signed for the duration of the contract, ~~except that the Commission may periodically adjust the value of environmental attributes that are applicable to an executed contract based upon whether the plant becomes certified by LIHI or loses such certification.~~

(ii) The Commission annually may adjust these elements for inclusion in contracts that are executed after the date any such adjustments are made.

~~(5) In addition to the limits specified in subdivision (3) of this subsection (p), in no event shall an existing hydroelectric plant receive a price in one year higher than its price in the previous year, adjusted for inflation using the CPI, except that if a plant becomes certified by LIHI, the Commission may add to the price any incremental increase in the value of the plant's environmental attributes resulting from such certification.~~

~~(6) Once a plant owner has executed a contract for a standard offer under this subsection (p), the plant owner shall continue to receive the pricing terms agreed on in that contract regardless of whether the Commission subsequently changes any pricing terms under this subsection.~~

(7)(6) Capacity of existing hydroelectric plants executing a standard offer contract under this subsection shall not count toward the cumulative capacity amount of subsection (c) of this section.

* * * Public Records Exemption * * *

Sec. 16. 1 V.S.A. § 317 is amended to read:

§ 317. DEFINITIONS; PUBLIC AGENCY; PUBLIC RECORDS AND DOCUMENTS

* * *

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

* * *

(27) Information and records provided to the Department of Public Service or the Public Utility Commission by an individual for the purposes of having the Department or Commission assist that individual in resolving a dispute with a utility regulated by the Department or Commission, or by the utility or any other person in connection with the individual's dispute.

* * *

* * * Certificate of Public Good Hearings * * *

Sec. 17. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

* * *

(4)(A) With respect to a facility located in the State, in response to a request from one or more members of the public or a party, the Public Utility Commission shall hold a ~~nontechnical~~ nonevidentiary public hearing on ~~each~~ a petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located. The Commission in its discretion may hold a nonevidentiary public hearing in the absence of any request from a member of the public or a party. From the comments made at ~~the~~ a public hearing, the Commission shall derive areas of inquiry that are relevant to the findings to be made under this section and shall address each such area in its decision. Prior to making findings, if the record does not contain evidence on such an area, the Commission shall direct the parties to provide evidence on the area. This subdivision does not require the Commission to respond to each individual comment.

(B) The Public Utility Commission shall hold ~~technical~~ evidentiary hearings at locations that it selects in any case conducted under this section in which contested issues remain or when any party to a case requests that an evidentiary hearing be held. In the event a case is fully resolved and no party requests a hearing, the Commission may exercise its discretion and determine that an evidentiary hearing is not necessary to protect the interests of the parties or the public, or for the Commission to reach its decision on the matter.

* * *

(i)(1) No company, as defined in sections 201 and 203 of this title, without approval by the Commission, after giving notice of such investment, or filing a copy of that contract, with the Commission and the Department at least 30 days prior to the proposed effective date of that contract or investment:

* * *

(3) The Commission, upon its own motion, or upon the recommendation of the Department, may determine to initiate an investigation. If the Commission does not initiate an investigation within such 30-day period, the contract or investment shall be deemed to be approved. If the Commission determines to initiate an investigation, it shall give notice of that decision to the company proposing the investment or contract, the Department, and such other persons as the Commission determines are appropriate. The Commission shall conclude its investigation within 120 days of issuance of its notice of investigation, or within such shorter period as it deems appropriate. If the Commission fails to issue a decision within that 120-day period, the contract or investment shall be deemed to be approved. The Commission may hold informal, public, or ~~technical~~ evidentiary hearings on the proposed investment or contract.

* * *

* * * Rate Change Hearings * * *

Sec. 18. 30 V.S.A. § 225 is amended to read:

§ 225. RATE SCHEDULES

* * *

(b) Immediately upon receipt of notice of a change in a rate schedule filed by a company, the Department shall investigate the justness and reasonableness of that change. ~~At least 15 days prior to the date on which the change is to become effective~~ Within 30 days of receipt of this notice, the Department shall either report to the Commission the results of its investigations together with its recommendation for acceptance of the change, or it shall notify the

Commission and other parties that it opposes the change. If the Department of Public Service reports its acceptance of the change in rates, the Commission may accept the change, or it may on its own motion conduct an investigation into the justness and reasonableness of the change, or it may order the Department to appear before it to justify its recommendation to accept the change. In no event shall a change go into effect without the approval of the Commission, except when a rate change is suspended and temporary or permanent rates are allowed to go into effect pursuant to subsection 226(a) or 227(a) of this title. The Commission shall consider the Department's recommendation and take action pursuant to sections 226 and 227 of this title ~~before the date on which the changed rate is to become effective~~ within 45 days of receipt of notice of a change in a rate schedule. In the event that the Department opposes the change, the Commission shall hear evidence on the matter and make such orders as justice and law require. In any hearing on a change in rates, whether or not opposed by the Department, the Commission may request the appearance of the Attorney General or appoint a member of the Vermont bar to represent the public or the State.

Sec. 19. 30 V.S.A. § 226 is amended to read:

§ 226. RATES, HEARINGS, BOND

* * *

(c) If the Department does not oppose the change as provided in section 225 of this title, five persons adversely affected by the change, or, if the change adversely affects ~~less~~ fewer than five persons, any one person so affected may apply at their own expense to the Commission by petition alleging why the change is unreasonable and unjust and asking that the Commission investigate the matter and make such orders as justice and law require. ~~The petition shall be filed at least seven days before the date the rates become effective~~ within 38 days of the date of the notice of rate change that was filed pursuant to section 225 of this title. The Commission may suspend the rates as a result of the petition. The Commission may hold a hearing on the petition. Whether or not a hearing is held, the Commission shall make such orders as justice and law require.

Sec. 20. 30 V.S.A. § 227 is amended to read:

§ 227. SUSPENSION, REFUND

(a) If the Commission orders that a change shall not go into effect until final determination of the proceedings, it shall proceed to hear the matter as promptly as possible and shall make its determination within seven months from the date that ~~the change otherwise would have gone into effect~~ it orders

the investigation. If a company files for a change in rate design among classes of ratepayers, and the company has a rate case pending before the Commission, the Commission shall make its determination on the rate design change within seven months after the rate case is decided by the Commission. If the Commission fails to make its determination within the time periods set by this subsection, the changed rate schedules filed by the company shall become effective and final.

* * *

Sec. 21. 30 V.S.A. § 11 is amended to read:

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

(a) The forms, pleadings, and rules of practice and procedure before the Commission shall be prescribed by it. The Commission shall adopt rules ~~which~~ that include, among other things, provisions that:

* * *

(2) A ~~prehearing~~ scheduling conference shall be ordered in every contested rate case. At such conference the Commission may require the State or any person opposing such rate increase to specify what items shown by the filed exhibits are conceded. Further proof of conceded items shall not be required.

* * *

Sec. 22. 30 V.S.A. § 10 is amended to read:

§ 10. SERVICE OF PROCESS; NOTICE OF HEARINGS; TEMPORARY RESTRAINING ORDERS

* * *

(c) A ~~prehearing~~ scheduling or procedural conference may be held upon any reasonable notice.

* * *

Sec. 23. PUBLIC UTILITY COMMISSION; POSITION

Establishment of a new permanent exempt position of one Deputy Clerk within the Public Utility Commission is authorized in fiscal year 2020.

Sec. 24. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(For text see House Journal March 19, 2019)

Amendment to be offered by Reps. Patt of Worcester, Briglin of Thetford, Chesnut-Tangerman of Middletown Springs, Campbell of St. Johnsbury, Higley of Lowell, Scheuermann of Stowe, Sibia of Dover and Yantachka of Charlotte to H. 133

That the House concur in the Senate proposal of amendment with further amendment thereto by striking out Sec. 24, effective date, in its entirety and inserting in lieu thereof five new sections and their reader assistance headings to read as follows:

* * * Energy Storage Facilities * * *

Sec. 24. 30 V.S.A. § 201 is amended to read:

§ 201. DEFINITIONS

* * *

(c) As used in this chapter, “energy storage facility” means a system that uses mechanical, chemical, or thermal processes to store energy for export to the grid.

Sec. 25. 30 V.S.A. § 248 is amended to read:

§ 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND FACILITIES; CERTIFICATE OF PUBLIC GOOD

(a)(1) No company, as defined in section 201 of this title, may:

* * *

(B) invest in an electric generation facility, energy storage facility, or transmission facility located outside this State unless the Public Utility Commission first finds that the same will promote the general good of the State and issues a certificate to that effect.

(2) Except for the replacement of existing facilities with equivalent facilities in the usual course of business, and except for electric generation or energy storage facilities that are operated solely for on-site electricity consumption by the owner of those facilities and for hydroelectric generation facilities subject to licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12, subchapter 1:

(A) no company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may begin site preparation for or construction of an electric generation facility, energy storage facility, or

electric transmission facility within the State that is designed for immediate or eventual operation at any voltage; and

(B) no such company may exercise the right of eminent domain in connection with site preparation for or construction of any such transmission facility, energy storage facility, or generation facility, unless the Public Utility Commission first finds that the same will promote the general good of the State and issues a certificate to that effect.

* * *

(7) When a certificate of public good under this section or amendment to such a certificate is issued for an in-state electric generation or energy storage facility with a capacity that is greater than 15 kilowatts, the certificate holder within 45 days shall record a notice of the certificate or amended certificate, on a form prescribed by the Commission, in the land records of each municipality in which a facility subject to the certificate is located and shall submit proof of this recording to the Commission. The recording under this subsection shall be indexed as though the certificate holder were the grantor of a deed. The prescribed form shall not exceed one page and shall require identification of the land on which the facility is to be located by reference to the conveyance to the current landowner, the number of the certificate, and the name of each person to which the certificate was issued, and shall include information on how to contact the Commission to view the certificate and supporting documents.

* * *

(u) A certificate under this section shall only be required for an energy storage facility that has a capacity of 500 kW or greater.

Sec. 26. DEPARTMENT OF PUBLIC SERVICE RECOMMENDATIONS

On or before January 15, 2020, the Department of Public Service, after consultation with stakeholders, shall provide to the General Assembly recommendations, including proposed statutory language, for the regulatory treatment of energy storage facilities. These recommendations shall address both energy storage facilities with a capacity of less than 500 kW and energy storage facilities of any size with grid-exporting capabilities not subject to direct or indirect control by a Vermont distribution utility.

* * * Standard Offer Program Exemption * * *

Sec. 27. 30 V.S.A. § 8005a is amended to read:

§ 8005a. STANDARD OFFER PROGRAM

* * *

(k) Executed standard offer contracts; transferability; allocation of benefits and costs. With respect to executed contracts for standard offers under this section:

* * *

(B) A retail electricity provider ~~shall be exempt and wholly that was~~ relieved from the requirements of this subdivision ~~if, by the Commission on or before January 25, 2018, shall be exempt from the requirements of this subdivision in any year that the Standard Offer Facilitator allocates electricity pursuant to this subdivision if the retail electricity provider meets the following criteria:~~

(i) during the immediately preceding 12-month period ending October 31, the amount of renewable energy supplied to the provider by generation owned by or under contract to the provider, regardless of whether the provider owned the energy's environmental attributes, was not less than the amount of energy sold by the provider to its retail customers; and

(ii) the retail electricity provider owns and retires an amount of 30 V.S.A. § 8005(a)(1) qualified energy environmental attributes that is not less than the provider's retail sales.

* * *

* * * Effective Date * * *

Sec. 28. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

H. 523

An act relating to miscellaneous changes to the State's retirement systems

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

In Sec. 4, Law Enforcement Retirement Benefits Study Committee; Recommendations; Report, by striking out subsection (e) in its entirety and by relettering the remaining subsections in Sec. 4 to be alphabetically correct.

(For text see House Journal March 20, 2019)

NEW BUSINESS

Favorable with Amendment

H. 143

An act relating to appointing town agents

Rep. LaClair of Barre Town, for the Committee on Government Operations, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. § 2646 is amended to read:

§ 2646. TOWN OFFICERS; QUALIFICATION; ELECTION

At the annual meeting, a town shall choose from among its registered voters the following town officers, who shall serve until the next annual meeting and until successors are chosen, unless otherwise provided by law:

* * *

~~(11) A town agent to prosecute and defend suits in which the town or town school district is interested. [Repealed.]~~

* * *

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

§ 1061. CONVEYANCE OF REAL ESTATE

* * *

(d) Subject to the provisions of subsections (a) and (b) of this section, real estate owned by a city, town, village, or town school district may be conveyed by an agent ~~elected or appointed~~ designated by the legislative body for that purpose, and the conveyance shall be under the hand and seal of ~~such~~ the agent. ~~When the municipality fails to elect an agent, or the office becomes vacant or the municipality is not required by law to elect an agent, the legislative body may appoint such an agent, and~~ The legislative body shall certify the designation of an agent and have the certificate of ~~appointment~~ recorded by the clerk.

* * *

Sec. 3. 32 V.S.A. § 4404 is amended to read:

§ 4404. APPEALS FROM LISTERS AS TO GRAND LIST

* * *

(b) The town clerk forthwith shall call a meeting of the board to hear and determine such appeals, which shall be held at such time, not later than 14 days after the last date allowed for notice of appeal, and at such place within the town as he or she shall designate. Notice of such time and place shall be given by posting a warning therefor in three or more public places in such town, and by mailing a copy of such warning, postage prepaid, to each member of the board, ~~the an agent of the town to prosecute and defend suits~~

designated by the legislative body, the chair of the board of listers, and to all persons so appealing.

* * *

Sec. 4. 32 V.S.A. § 4461 is amended to read:

§ 4461. TIME AND MANNER OF APPEAL

* * *

(b) On or before the last day on which appeals may be taken from the decision of the board of civil authority, ~~the an agent of the town to prosecute and defend suits in which the town is interested~~ designated by the legislative body of the town, in the name of the town, on written application of one or more taxpayers of the town whose combined grand list represents at least three percent of the grand list of the town for the preceding year, shall appeal to the Superior Court from any action of the board of civil authority not involving appeals of the applying taxpayers. However, the ~~town~~ agent designated by the legislative body shall, in any event, have at least six business days after receipt of such taxpayers' application for appeal in which to take the appeal, and the date for the taking of such appeal shall accordingly be extended, if necessary, until the six business days shall have elapsed. The \$70.00 entry fee shall be paid by the applicants with respect to each individual property thus being appealed ~~which~~ that is separately listed in the grand list.

* * *

Sec. 5. 32 V.S.A. § 4463 is amended to read:

§ 4463. OBJECTIONS TO APPEAL

When a taxpayer, ~~town~~ an agent designated by the legislative body of the town, or selectboard claims that an appeal to the Director is in any manner defective or was not lawfully taken, on or before 14 days after mailing of the notice of appeal by the clerk under Rule 74(b) of the Vermont Rules of Civil Procedure, the taxpayer, ~~town~~ agent, or selectboard shall file objections in writing with the Director, and furnish the appellant or appellant's attorney with a copy of the objections. When the taxpayer, ~~town~~ agent, or selectboard so requests, the Director shall thereupon fix a time and place for hearing the objections, and shall notify all parties thereof, by mail or otherwise. Upon hearing or otherwise, the Director shall pass upon the objections and make such order in relation thereto as is required by law. The order shall be recorded or attached in the town clerk's office in the book wherein the appeal is recorded.

Sec. 6. 24 App. V.S.A. chapter 13, § 301 is amended to read:

§ 301. OFFICERS; GENERAL PROVISIONS

The officers of the City of South Burlington shall be those provided by law for towns, except as otherwise provided by this charter. The officers shall have all the powers and duties necessary to carry out the provisions of this charter as well as those provided by law. The offices of Fence Viewer, Weigher of Coal, and Inspector of Lumber shall be abolished.

* * *

(2) The Council by majority vote of all its members shall appoint annually the City Treasurer, whose office shall be no longer elective and the City Attorney, Zoning Administrator, Auditor, First and Second Constable, Grand Juror, ~~City Agent~~, and Trustee of Public Funds.

* * *

Sec. 7. 24 App. V.S.A. chapter 123, § 302 is amended to read:

§ 302. ELECTIVE OFFICERS

(a) The officers elected and their compensation fixed by the Town at its annual meeting shall be:

* * *

(12) ~~A Town Agent~~ [Repealed.]

* * *

Sec. 8. 24 App. V.S.A. chapter 129, § 306 is amended to read:

§ 306. APPOINTED OFFICERS

* * *

(e) The Selectboard shall appoint the following officers using the same procedure specified in the Town’s administrative code for employees or vendors engaged by the Town on a contract basis.

* * *

(3) ~~Town Attorney/Town Agent~~

* * *

Sec. 9. 24 App. V.S.A. chapter 149, § 23 is amended to read:

§ 23. LOCAL ELECTED OFFICIALS

(a) Local elective offices to be filled by the voters of the Town of Springfield shall be only those articulated by this charter and shall include:

* * *

(6) ~~Town Agent;~~ [Repealed.]

* * *

Sec. 10. 24 App. V.S.A. chapter 155C, § 3 is amended to read:

§ 3. APPOINTED OFFICERS

(a) In addition to all other offices which may be filled by appointment by the Selectboard pursuant to State law, the Selectboard shall appoint the following officers:

* * *

(3) Delinquent Tax Collector; and

(4) cemetery commissioners; ;

(5) ~~Town Agent;~~ and [Repealed.]

(6) ~~Town Grand Juror.~~ [Repealed.]

* * *

Sec. 11. 24 App. V.S.A. chapter 245, § 6 is amended to read:

§ 6. VILLAGE OFFICERS

(a) The officers of the corporation shall consist of a Moderator, five trustees, a Clerk, and a Treasurer, ~~and an agent to convey real estate.~~ The officers shall be elected at the annual meeting of the corporation for the term of one year and until their successors are elected, except that trustees shall hold office for five years. One trustee shall be elected at each annual meeting, except that after the approval of this charter at the annual Village meeting, the voters shall elect five trustees, one for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, and one for the term of five years. The trustees and the Treasurer, at the time of their election, shall be legal voters of the Village of Morrisville or the Town of Morristown.

* * *

Sec. 12. TRANSITIONAL PROVISIONS

Any elected town agent in office on the effective date of this act may serve the remainder of his or her term.

Sec. 13. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee Vote: 11-0-0)

S. 7

An act relating to social service integration with Vermont's health care system

Rep. Lippert of Hinesburg, for the Committee on Health Care, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. REPORT; INTEGRATION OF SOCIAL SERVICES

(a)(1) On or before January 1, 2021, the Agency of Human Services, in collaboration with the Green Mountain Care Board, shall submit to the House Committees on Appropriations, on Health Care, and on Human Services and the Senate Committees on Appropriations and on Health and Welfare a plan to coordinate the financing and delivery of Medicaid mental health services and Medicaid home- and community-based services with the all-payer financial target services.

(2) In preparing the report, the Agency shall consult with individuals receiving services and family members of individuals receiving services.

(b) On or before January 15, 2020, the Agency shall provide an interim status presentation to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare, including an update on the Agency's progress, the process for the plan's development, and the identities of any stakeholders with whom the Agency has consulted.

Sec. 2. REPORT; EVALUATION OF SOCIAL SERVICE INTEGRATION
WITH ACCOUNTABLE CARE ORGANIZATIONS

On or before December 1, 2019, the Green Mountain Care Board shall submit a report to the House Committees on Health Care and on Human Services and to the Senate Committee on Health and Welfare evaluating the manner and degree to which social services, including services provided by the parent-child center network, designated and specialized service agencies, and home health and hospice agencies are integrated into accountable care organizations (ACOs) certified pursuant to 18 V.S.A. § 9382. In preparing the report, the Board shall consult with individuals receiving services and family members of individuals receiving services. The evaluation shall address:

(1) the number of social service providers receiving payments through one or more ACOs, if any, and for which services;

(2) the extent to which any existing relationships between social service providers and one or more ACOs address childhood trauma or resilience building; and

(3) recommendations to enhance integration between social service providers and ACOs, if appropriate.

Sec. 2a. 18 V.S.A. § 9382 is amended to read:

§ 9382. OVERSIGHT OF ACCOUNTABLE CARE ORGANIZATIONS

* * *

(b)(1) The Green Mountain Care Board shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish standards and processes for reviewing, modifying, and approving the budgets of ACOs with 10,000 or more attributed lives in Vermont. To the extent permitted under federal law, the Board shall ensure the rules anticipate and accommodate a range of ACO models and sizes, balancing oversight with support for innovation. In its review, the Board shall review and consider:

* * *

(N) the effect, if any, of Medicaid reimbursement rates on the rates for other payers; ~~and~~

(O) the extent to which the ACO makes its costs transparent and easy to understand so that patients are aware of the costs of the health care services they receive; and

(P) the extent to which the ACO provides resources to primary care practices to ensure that care coordination and community services, such as mental health and substance use disorder counseling that are provided by community health teams are available to patients without imposing unreasonable burdens on primary care providers or on ACO member organizations.

* * *

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

§ 3403. DIRECTOR OF TRAUMA PREVENTION AND RESILIENCE
DEVELOPMENT

* * *

(b) The Director shall:

(1) provide advice and support to the Secretary of Human Services and facilitate communication and coordination among the Agency's departments with regard to childhood adversity, toxic stress, and the promotion of resilience building;

(2) collaborate with both community and State partners, including the Agency of Education and the Judiciary, to build consistency between trauma-informed systems that address medical and social service needs and serve as a conduit between providers and the public;

(3) provide support for and dissemination of educational materials pertaining to childhood adversity, toxic stress, and the promotion of resilience building, including to postsecondary institutions within Vermont's State College System and the University of Vermont and State Agricultural College;

(4) coordinate with partners inside and outside State government, including the Child and Family Trauma Work Group;

(5) evaluate the statewide system, including the work of the Agency and the Agency's grantees and community contractors, that addresses resilience and trauma-prevention;

(6) evaluate, in collaboration with the Department for Children and Families and providers addressing childhood adversity prevention and resilience building services, strategies for linking pediatric primary care with the parent-child center network and other social services; ~~and~~

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

(8) serve as a resource in ensuring new models used by community social service providers are aligned with the State's goals for trauma-informed prevention and resilience.

Sec. 4. REPORT; SOCIAL SERVICE PROVIDER AND PEDIATRIC

PRIMARY CARE PARTNERSHIP

(a) On or before January 1, 2020, the Director of Trauma Prevention and Resilience Development established pursuant to 33 V.S.A. § 3403 and the Director of Maternal and Child Health shall submit a report to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare, in consultation with stakeholders, assessing:

(1) the model in which a social service provider is embedded within a pediatric primary care practice; and

(2) the Strong Families Sustained Home Visiting Programs.

(b) The report required pursuant to subsection (a) of this section shall include recommendations for the further development and expansion of the models described in subdivisions (a)(1) and (2) of this section in coordination with any proposals for reform resulting from the CHINS review conducted pursuant to 2018 (Sp. Sess.) Acts and Resolves No. 11, Sec. C.106.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee vote: 11-0-0)

(For text see Senate Journal March 20, 2019)

S. 73

An act relating to licensure of ambulatory surgical centers

Rep. Donahue of Northfield, for the Committee on Health Care, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 49 is added to read:

CHAPTER 49. AMBULATORY SURGICAL CENTERS

Subchapter 1. General Provisions

§ 2141. DEFINITIONS

As used in this chapter:

(1) “Ambulatory surgical center” means any distinct entity that operates primarily for the purpose of providing surgical services to patients not requiring hospitalization and for which the expected duration of services would not exceed 24 hours following an admission. The term does not include:

(A) a facility that is licensed as part of a hospital; or

(B) a facility that is used exclusively as an office or clinic for the private practice of one or more licensed health care professionals, unless one or more of the following descriptions apply:

(i) the facility holds itself out to the public or to other health care providers as an ambulatory surgical center, surgical center, surgery center, surgicenter, or similar facility using a similar name or a variation thereof;

(ii) procedures are carried out at the facility using general anesthesia, except as used in oral or maxillofacial surgery or as used by a dentist with a general anesthesia endorsement from the Board of Dental Examiners; or

(iii) patients are charged a fee for the use of the facility in addition to the fee for the professional services of one or more of the health care professionals practicing at that facility.

(2) "Health care professional" means:

(A) a physician licensed pursuant to 26 V.S.A. chapter 23 or 33;

(B) an advanced practice registered nurse licensed pursuant to 26 V.S.A. chapter 28;

(C) a physician assistant licensed pursuant to 26 V.S.A. chapter 31;

(D) a podiatrist licensed pursuant to 26 V.S.A. chapter 7; or

(E) a dentist licensed pursuant to 26 V.S.A. chapter 12.

(3) "Patient" means a person admitted to or receiving health care services from an ambulatory surgical center.

Subchapter 2. Licensure of Ambulatory Surgical Centers

§ 2151. LICENSE

No person shall establish, maintain, or operate an ambulatory surgical center in this State without first obtaining a license for the ambulatory surgical center in accordance with this subchapter.

§ 2152. APPLICATION; FEE

(a) An application for licensure of an ambulatory surgical center shall be made to the Department of Health on forms provided by the Department and shall include all information required by the Department. Each application for a license shall be accompanied by a license fee.

(b) The annual licensing fee for an ambulatory surgical center shall be \$600.00.

(c) Fees collected under this section shall be credited to a special fund established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5 and shall be available to the Department of Health to offset the costs of licensing ambulatory surgical centers.

§ 2153. LICENSE REQUIREMENTS

(a) Upon receipt of an application for a license and the licensing fee, the Department of Health shall issue a license if it determines that the applicant and the ambulatory surgical center facilities meet the following minimum standards:

(1) The applicant shall demonstrate the capacity to operate an ambulatory surgical center in accordance with rules adopted by the Department.

(2) The applicant shall demonstrate that its facilities comply fully with standards for health, safety, and sanitation as required by State law, including standards set forth by the State Fire Marshal and the Department of Health, and municipal ordinance.

(3) The applicant shall have a clear process for responding to patient complaints.

(4) The applicant shall participate in the Patient Safety Surveillance and Improvement System established pursuant to chapter 43A of this title.

(5) The applicant shall maintain certification from the Centers for Medicare and Medicaid Services and shall accept Medicare and Medicaid patients for ambulatory surgical center facility services.

(6) The ambulatory surgical center facilities, including the buildings and grounds, shall be subject to inspection by the Department, its designees, and other authorized entities at all times.

(b) A license is not transferable or assignable and shall be issued only for the premises and persons named in the application.

§ 2154. REVOCATION OF LICENSE; HEARING

The Department of Health, after notice and opportunity for hearing to the applicant or licensee, is authorized to deny, suspend, or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements established under this chapter. Such notice shall be served by registered mail or by personal service, shall set forth the reasons for the proposed action, and shall set a date not less than 60 days from the date of the mailing or service on which the applicant or licensee shall be given opportunity for a hearing. After the hearing, or upon default of the applicant or licensee, the Department shall file its findings of fact and conclusions of law. A copy of the findings and decision shall be sent by registered mail or served personally upon the applicant or licensee. The procedure governing

hearings authorized by this section shall be in accordance with the usual and customary rules provided for such hearings.

§ 2155. APPEAL

Any applicant or licensee, or the State acting through the Attorney General, aggrieved by the decision of the Department of Health after a hearing may, within 30 days after entry of the decision as provided in section 2154 of this title, appeal to the Superior Court for the district in which the appellant is located. The court may affirm, modify, or reverse the Department's decision, and either the applicant or licensee or the Department or State may appeal to the Vermont Supreme Court for such further review as is provided by law. Pending final disposition of the matter, the status quo of the applicant or licensee shall be preserved, except as the court otherwise orders in the public interest.

§ 2156. INSPECTIONS

The Department of Health shall make or cause to be made such inspections and investigations as it deems necessary. If the Department finds a violation as the result of an inspection or investigation, the Department shall post a report on the Department's website summarizing the violation and any corrective action required.

§ 2157. RECORDS

(a) Information received by the Department of Health through filed reports, inspections, or as otherwise authorized by law shall:

(1) not be disclosed publicly in a manner that identifies or may lead to the identification of one or more individuals or ambulatory surgical centers;

(2) be exempt from public inspection and copying under the Public Records Act; and

(3) be kept confidential except as it relates to a proceeding regarding licensure of an ambulatory surgical center.

(b) The provisions of subsection (a) of this section shall not apply to the summary reports of violations required to be posted on the Department's website pursuant to section 2156 of this chapter.

§ 2158. NONAPPLICABILITY

The provisions of chapter 42 of this title, Bill of Rights for Hospital Patients, do not apply to ambulatory surgical centers.

§ 2159. RULES

The Department of Health shall adopt rules pursuant to 3 V.S.A. chapter 25 as needed to carry out the purposes of this chapter. The rules shall include requirements regarding:

(1) the ambulatory surgical center's maintenance of a transport agreement with at least one emergency medical services provider for emergency patient transportation;

(2) the ambulatory surgical center's maintenance of a publicly accessible policy for providing charity care to eligible patients; and

(3) the ambulatory surgical center's participation in quality reporting programs offered by the Centers for Medicare and Medicaid Services.

Sec. 2. 18 V.S.A. § 1909 is amended to read:

§ 1909. INSPECTIONS

The licensing agency shall make or cause to be made such inspections and investigation investigations as it deems necessary. If the licensing agency finds a violation as the result of an inspection or investigation, the licensing agency shall post a report on the licensing agency's website summarizing the violation and any corrective action required.

Sec. 3. 18 V.S.A. § 1910 is amended to read:

§ 1910. RECORDS

(a) Information received by the licensing agency through filed reports, inspection, or as otherwise authorized under this by law, shall:

(1) not be disclosed publicly in such a manner as to identify individuals or hospitals, except in a proceeding involving the question of licensure that identifies or may lead to the identification of one or more individuals or hospitals;

(2) be exempt from public inspection and copying under the Public Records Act; and

(3) be kept confidential except as it relates to a proceeding regarding licensure of a hospital.

(b) The provisions of subsection (a) of this section shall not apply to the summary reports of violations required to be posted on the licensing agency's website pursuant to section 1909 of this chapter.

Sec. 4. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

* * *

(14)(A) Collect and review data from ambulatory surgical centers licensed pursuant to chapter 49 of this title, which may include data on an ambulatory surgical center's scope of services, volume, utilization, payer mix, quality, coordination with other aspects of the health care system, and financial condition. The Board's processes shall be appropriate to ambulatory surgical centers' scale and their role in Vermont's health care system, and the Board shall consider ways in which ambulatory surgical centers can be integrated into systemwide payment and delivery system reform.

(B) The Board shall report to the House Committee on Health Care and the Senate Committee on Health and Welfare annually, on or before January 15, using claims data from the Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES), regarding high-volume outpatient surgeries and procedures performed in ambulatory surgical center and hospital settings in Vermont, any changes in utilization over time, and a comparison of the commercial insurance rates paid for the same surgeries and procedures performed in ambulatory surgical centers and in hospitals in Vermont.

Sec. 5. 18 V.S.A. § 9405b is amended to read:

§ 9405b. HOSPITAL COMMUNITY REPORTS AND AMBULATORY SURGICAL CENTER QUALITY REPORTS

* * *

(d) The Commissioner of Health shall publish or otherwise make publicly available on its website each ambulatory surgical center's performance results from quality reporting programs offered by the Centers for Medicare and Medicaid Services and shall update the information at least annually.

Sec. 6. EFFECTIVE DATES

(a) Sec. 1 (18 V.S.A. chapter 49) shall take effect on January 1, 2020, provided that any ambulatory surgical center in operation on that date shall have six months to complete the licensure process.

(b) Secs. 2 (18 V.S.A. § 1909) and 3 (18 V.S.A. § 1910) shall take effect on July 1, 2019.

(c) Sec. 4 (18 V.S.A. § 9375(b)) and this section shall take effect on passage.

(d) Sec. 5 (18 V.S.A. § 9405b) shall take effect on January 1, 2020.

(Committee vote: 10-0-1)

(For text see Senate Journal March 19, 22, 2019)

Rep. Ancel of Calais, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Health Care and when further amended as follows:

First: In Sec. 1, in 18 V.S.A. § 2152, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c) Fees collected under this section shall be credited to the Hospital Licensing Fees Special Fund and shall be available to the Department of Health to offset the costs of licensing ambulatory surgical centers.

Second: By adding a new section to be Sec. 3a to read:

Sec. 3a. 18 V.S.A. § 9373 is amended to read:

§ 9373. DEFINITIONS

As used in this chapter:

* * *

(18) “Net patient revenues” has the same meaning as in 33 V.S.A. § 1951.

Third: In Sec. 4, 18 V.S.A. § 9375(b), in subdivision (14)(A), in the first sentence, following “of this title,” by inserting “which shall include net patient revenues and” and by striking out subdivision (14)(B) in its entirety and inserting in lieu thereof a new subdivision (14)(B) to read:

(B) The Board shall report to the House Committees on Health Care and on Ways and Means and the Senate Committees on Health and Welfare and on Finance annually, on or before January 15, each ambulatory surgical center’s net patient revenues and, using claims data from the Vermont Healthcare Claims Uniform Reporting and Evaluation System (VHCURES), information regarding high-volume outpatient surgeries and procedures performed in ambulatory surgical center and hospital settings in Vermont, any changes in utilization over time, and a comparison of the commercial

insurance rates paid for the same surgeries and procedures performed in ambulatory surgical centers and in hospitals in Vermont.

(Committee Vote: 10-0-1)

Senate Proposal of Amendment

H. 79

An act relating to eligibility for farm-to-school grant assistance

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

Sec. 1. 6 V.S.A. § 4721 is amended to read:

§ 4721. LOCAL FOODS GRANT PROGRAM

(a) There is created in the Agency of Agriculture, Food and Markets the Roza McLaughlin Farm-to-School Program to execute, administer, and award local grants for the purpose of helping Vermont schools develop farm-to-school programs that will sustain relationships with local farmers and producers, enrich the educational experience of students, improve the health of Vermont children, and enhance Vermont's agricultural economy.

(b) A school, a school district, a consortium of schools, a consortium of school districts, ~~or a registered or licensed child care providers~~ provider, or an organization administering or assisting the development of farm-to-school programs may apply to the Secretary of Agriculture, Food and Markets for a grant award to:

(1) fund equipment, resources, training, and materials that will help to increase use of local foods in child nutrition programs;

(2) fund items, including local food products, gardening supplies, field trips to farms, gleaning on farms, and stipends to visiting farmers, that will help educators to use hands-on educational techniques to teach children about nutrition and farm-to-school connections;

(3) fund professional development and technical assistance, in partnership with the Agency of Education and farm-to-school technical service providers, to help teachers, child nutrition personnel, organizations administering or assisting the development of farm-to-school programs, and members of the farm-to-school community educate students about nutrition and farm-to-school connections and assist schools and licensed or registered child care providers in developing a farm-to-school program; and

(4) fund technical assistance or support strategies to increase participation in federal child nutrition programs that increase the viability of sustainable meal programs.

(c) The Secretaries of Agriculture, Food and Markets and of Education and the Commissioner of Health, in consultation with farmers, child nutrition staff, educators, organizations administering or assisting the development of farm-to-school programs, and farm-to-school technical service providers jointly shall adopt procedures relating to the content of the grant application and the criteria for making awards.

(d) The Secretary shall determine that there is significant interest in the school community before making an award and shall give priority consideration to schools, school districts, and registered or licensed child care providers that are developing farm-to-school connections and education, that indicate a willingness to make changes to their child nutrition programs to increase student access and participation, and that are making progress toward the implementation of the Vermont School Wellness Policy Guidelines developed by the Agency of Agriculture, Food and Markets, the Agency of Education, and the Department of Health, updated in June 2015 or of the successor of these guidelines.

(e) No award shall be greater than ~~\$15,000.00~~ 20 percent of the total annual amount available for granting except that a grant award to the following entities may, at the discretion of the Secretary of Agriculture, Food and Markets, exceed the cap:

(1) Farm-to-School service providers; or

(2) school districts or consortiums of school districts that completed merger under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46 on or before July 1, 2019, provided that the grant is used for the purpose of expanding Farm-to-School projects to additional schools within the new school district.

Sec. 2. 6 V.S.A. § 4722 is amended to read:

§ 4722. FARM ASSISTANCE; SECRETARY OF AGRICULTURE, FOOD AND MARKETS

(a) The Secretary of Agriculture, Food and Markets shall work with existing programs and organizations to develop and implement educational opportunities for farmers to help them increase their markets through selling their products to schools, registered or licensed child care providers, and State government agencies that operate or participate in child nutrition programs.

(b) The Secretary of Agriculture, Food and Markets shall work with distributors that sell products to schools, registered or licensed child care providers, and State government agencies to increase the availability of local products. The Secretary of Agriculture, Food and Markets shall consult and cooperate with the Secretary of Education when working with distributors to schools under this subsection.

Sec. 3. 6 V.S.A. § 4724(b) is amended to read:

(b) The duties of the Food Systems Administrator shall include:

(1) working with institutions, schools, the Agency of Education, registered or licensed child care providers, distributors, producers, commercial markets, and others to create matchmaking opportunities that increase the number of Vermont institutions that purchase foods grown or produced in Vermont;

* * *

Sec. 4. 16 V.S.A. § 1264 is amended to read:

§ 1264. FOOD PROGRAM

(a)(1) Each school board operating a public school shall cause to operate within the school district a food program that makes available a school lunch, as provided in the National School Lunch Act as amended, and a school breakfast, as provided in the National Child Nutrition Act as amended, to each attending student every school day.

(2) Each school board operating a public school shall offer a summer snack or meals program funded by the Summer Food Service program or the National School Lunch Program for participants in a summer educational or recreational program or camp if:

(A) at least 50 percent of the students in a school in the district were eligible for free or reduced-price meals under subdivision (1) of this subsection for at least one month in the preceding academic year;

(B) the district operates or funds the summer educational or recreational program or camp; and

(C) the summer educational or recreational program or camp is offered 15 or more hours per week.

(b) In the event of an emergency, the school board may apply to the Secretary for a temporary waiver of the requirements in subsection (a) of this section. The Secretary shall grant the requested waiver if he or she finds that it is unduly difficult for the school district to provide a school lunch, breakfast,

or summer meals program, or any combination of the three, and if he or she finds that the school district and supervisory union have exercised due diligence to avoid the emergency situation that gives rise to the need for the requested waiver. In no event shall the waiver extend for a period to exceed 20 school days or, in the case of a summer meals program, the remainder of the summer vacation.

(c) The State shall be responsible for the student share of the cost of breakfasts provided to all students eligible for a reduced-price breakfast under the federal school breakfast program and for the student share of the cost of lunches provided to all students eligible for a reduced-price lunch under the federal school lunch program.

(d) It is a goal of the State that by the year 2022 school boards operating a school lunch, breakfast, or summer meals program shall purchase at least 20 percent of all food for those programs from local producers.

(e)(1) On or before December 31, 2020, and annually thereafter, a school board operating a school lunch, breakfast, or summer meals program shall submit to the Agency of Education an estimate of the percentage of locally produced foods that were purchased by the school board for those programs.

(2) On or before January 31, 2021, and annually thereafter, the Agency of Education shall submit to the Senate Committees on Agriculture and on Education and the House Committees on Agriculture and Forestry and on Education in an aggregated form the information received from school boards regarding the percentage of locally produced foods that are purchased as part of a school lunch, breakfast, or summer meals program. The provisions of 2 V.S.A. § 20(d) regarding expiration of required reports shall not apply to the report required by this subdivision.

Sec. 5. 16 V.S.A. § 559 is amended to read:

§ 559. PUBLIC BIDS

(a) When the cost exceeds \$15,000.00. A school board or supervisory union board shall publicly advertise or invite three or more bids from persons deemed capable of providing items or services if costs are in excess of \$15,000.00 for any of the following:

(1) the construction, purchase, lease, or improvement of any school building;

(2) the purchase or lease of any item or items required for supply, equipment, maintenance, repair, or transportation of students; or

(3) a contract for transportation, maintenance, or repair services.

* * *

(c) Contract award.

(1) A contract for any such item or service to be obtained pursuant to subsection (a) of this section shall be awarded to one of the three lowest responsible bids conforming to specifications, with consideration being given to quantities involved, time required for delivery, purpose for which required, competency and responsibility of bidder, and his or her ability to render satisfactory service. A board shall have the right to reject any or all bids.

* * *

(e) Application of this section. Any contract entered into or purchase made in violation of the provisions of this section shall be void; provided, however, that:

* * *

(4) Nothing in this section shall be construed to prohibit a school board from awarding a school nutrition contract after using any method of bidding or requests for proposals permitted under federal law for award of the contract. Notwithstanding the monetary amount in subsection (a) of this section for which a school board is required to advertise publicly or invite three or more bids or requests for proposal, a school board is required to publicly advertise or invite three or more bids or requests for proposal for purchases made from the nonprofit school food service account for purchases in excess of the federal simplified acquisition threshold when purchasing food or in excess of \$25,000.00 when purchasing nonfood items, unless a municipality sets a lower threshold for purchases from the nonprofit school food service account.

* * *

Sec. 6. NATIONAL SCHOOL LUNCH PROGRAM; FREE AND REDUCED LUNCH; INCREASED QUALIFIED PARTICIPANTS

(a) It is the goal of the General Assembly that the State attempt to identify as many families as possible in the State who are qualified to receive free and reduced lunches under the National School Lunch Program.

(b)(1) The Department of Taxes shall consult with the Agency of Education and the Department for Children and Families regarding whether existing tax data in the possession of the Department, including earned income tax credit data, can be used to:

(A) maximize enrollment in State and federal assistance programs;
and

(B) increase enrollment in State and federal assistance programs that may be used to directly certify families in the State as qualified to receive free and reduced lunches under the National School Lunch Program.

(2) If the Department of Taxes determines that tax data may be used to directly certify families as qualified to receive free and reduced lunches, the Agency of Education shall apply to the U.S. Department of Agriculture for a waiver to use the relevant tax data to directly certify qualified families in the State.

(3) On or before January 15, 2020, the Department of Taxes shall submit to the Senate Committees on Agriculture and on Education and the House Committees on Agriculture and Forestry and on Education a report regarding the status of State efforts under subdivision (1) of this subsection to directly certify families as qualified to receive free and reduced lunches.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(For text see House Journal February 20, 2019)

H. 104

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

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

* * * Office of Professional Regulation * * *

Sec. 1. 3 V.S.A. § 121 is amended to read:

§ 121. DEFINITIONS

As used in this subchapter:

(1) “Director” means the Director of the Office of Professional Regulation.

(2) “Licensing board” or “board” refers to the boards, commissions, and professions listed in section 122 of this ~~title~~ subchapter and, in the case of disciplinary matters or denials of licensure, either an administrative law officer appointed under subsection 129(j) of this ~~title~~ subchapter or the Director in advisor professions. Notwithstanding statutory language to the contrary, this subchapter shall apply to all those boards.

(3)(A) “License” includes any certification or registration or a permit, commission, or other official authorization to undertake a regulated activity.

(B) "Licensee" includes ~~registrants and holders of certificates or permits~~ any person to whom a license has been issued by a board or the Director.

(4) "Office" means the Office of Professional Regulation.

Sec. 2. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

The Office of Professional Regulation is created within the Office of the Secretary of State. The Office shall have a director who shall be appointed by the Secretary of State and shall be an exempt employee. The following boards or professions are attached to the Office of Professional Regulation:

* * *

(17) ~~Board of Radiologic Technology~~

* * *

(29) ~~Board of Real Estate Appraisers~~

* * *

(48) Notaries Public

Sec. 3. 3 V.S.A. § 127 is amended to read:

§ 127. UNAUTHORIZED PRACTICE

(a) When the Office receives a complaint of unauthorized practice, the Director shall refer the complaint to Office investigators and prosecutors.

(b)(1) A person practicing a regulated profession without authority or an employer permitting such practice may, upon the complaint of the Attorney General or a State's Attorney or an attorney assigned by the Office of Professional Regulation, be enjoined therefrom by the Superior Court where the violation occurred or the Washington County Superior Court and may be assessed a civil penalty of not more than ~~\$1,000.00~~ \$5,000.00.

(2)(A) The Attorney General or an attorney assigned by the Office of Professional Regulation may elect to bring an action seeking only a civil penalty of not more than ~~\$1,000.00~~ \$2,500.00 for practicing or permitting the practice of a regulated profession without authority before the board having regulatory authority over the profession or before an administrative law officer.

(B) Hearings shall be conducted in the same manner as disciplinary hearings.

(3)(A) A civil penalty imposed by a board or administrative law officer under this subsection (b) shall be deposited in the Professional Regulatory Fee Fund established in section 124 of this chapter for the purpose of providing education and training for board members and advisor appointees.

(B) The Director shall detail in the annual report receipts and expenses from these civil penalties.

(c) In addition to other provisions of law, unauthorized practice shall be punishable by 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 or an attorney assigned by the Office of Professional Regulation under this section and shall not act as a bar to civil or administrative proceedings involving the same conduct.

* * *

Sec. 4. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

(a) In addition to any other provision of law, the following conduct by a licensee constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license or other disciplinary action. Any one of the following items or any combination of items, whether the conduct at issue was committed within or outside the State, shall constitute unprofessional conduct:

* * *

(26) Sexually harassing or exploiting a patient, client, or consumer, or doing so to a coworker in a manner that threatens the health, safety, or welfare of patients, clients, or consumers; failing to maintain professional boundaries; or violating a patient, client, or consumer's reasonable expectation of privacy.

* * *

(d)(1) After hearing, and upon a finding of unprofessional conduct, a board or an administrative law officer may take disciplinary action against a licensee or applicant, including imposing an administrative penalty not to exceed \$1,000.00 \$5,000.00 for each unprofessional conduct violation.

(2)(A) Any money received under this subsection shall be deposited in the Professional Regulatory Fee Fund established in section 124 of this ~~title~~ chapter for the purpose of providing education and training for board members and advisor appointees.

(B) The Director shall detail in the annual report receipts and

expenses from money received under this subsection.

* * *

Sec. 5. 3 V.S.A. § 129b is amended to read:

§ 129b. BOARD MEMBER AND ADVISOR APPOINTMENTS

* * *

(g) For advisor professions, ~~advisors~~:

(1) Advisors shall be appointed by the Secretary of State and shall serve at the pleasure of the Secretary of State. Advisor appointments shall be subject to the same conditions as those for board members under this section.

(2) The Office shall warn and conduct an open meeting including advisors, program staff, and interested members of the public:

(A) at least once per year for each profession with 500 or fewer active licensees; and

(B) at least twice per year for each profession with more than 500 active licensees.

Sec. 6. 3 V.S.A. § 135 is amended to read:

§ 135. UNIFORM STANDARD FOR RENEWAL FOLLOWING
EXTENDED ABSENCE

(a) Notwithstanding any provision of law to the contrary, when an applicant seeks to renew an expired or lapsed license after fewer than five years of absence from practice, readiness to practice shall be inferred from completion of any continuing education that would have been required if the applicant had maintained continuous licensure, or by any less burdensome showing set forth in administrative rules specific to the profession or permitted by the Director.

* * *

Sec. 7. PROFESSIONAL REGULATION; ANALYSIS OF STATE
REGULATORY STRUCTURES

(a) Findings.

(1) The General Assembly finds that multiple State agencies regulate a variety of professions and occupations, resulting in professional regulatory structures that vary throughout the State.

(2) The General Assembly further finds that the State should review whether transferring the regulation of certain professions and occupations to a

different State agency would enhance the effectiveness of those professional regulatory structures, including by improving public protection and customer service, reducing unnecessary barriers to licensure, and increasing efficiencies in the staffing, information technology, and other necessary costs associated with professional regulation.

(b) Office of Professional Regulation, Agency of Administration, and other specified agencies; analysis and report.

(1) The Office of Professional Regulation and the Agency of Education, the Agency of Human Services, the Agency of Natural Resources, the Department of Public Safety, and the Department of Health shall collaborate in analyzing the professions and occupations that each of those agencies regulate in order to determine whether the effectiveness of those professional regulatory structures, including the elements of effectiveness described in subdivision (a)(2) of this section, would be enhanced by transferring an agency's professional regulation to a different agency.

(2) In conducting their analysis, the agencies shall consider the professional regulation reports and other information gathered as a result of 2016 Acts and Resolves No. 156, Secs. 20 and 21.

(3) The Office of Professional Regulation and the Agency of Administration shall lead this collaboration among all the agencies named in subdivision (1) of this subsection, but are encouraged to seek any available grants from outside resources that may enable the agencies to contract with an independent entity to conduct this analysis.

(4) On or before January 15, 2020, the independent entity or, if a contract with such an entity was not executed, the Office of Professional Regulation and the Agency of Administration shall report to the House Committees on Government Operations, on Education, on Human Services, on Health, on Natural Resources, Fish, and Wildlife, and on Commerce and Economic Development and the Senate Committees on Government Operations, on Education, on Health and Welfare, on Natural Resources and Energy, and on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

Sec. 7a. SPECIFIED PROFESSIONAL REGULATORY ENTITIES;
REPORT ON APPRENTICESHIP PATHWAYS TO LICENSURE

On or before January 15, 2020, the Office of Professional Regulation and the Agency of Administration shall collect the following information from the Agency of Education, the Agency of Human Services, the Agency of Natural Resources, the Department of Public Safety, and the Department of Health and

report that information, along with the Office's own information, to the Senate and House Committees on Government Operations, the Senate Committee on Economic Development, Housing and General Affairs, and the House Committee on Commerce and Economic Development:

(1) a list of all professions licensed under the entity's authority, identifying which of the licensed professions have an apprenticeship pathway to licensure and which do not;

(2) an explanation detailing why professions that do not have an apprenticeship pathway to licensure do not, and if one should be established; and

(3) a proposal for how to implement an apprenticeship pathway to licensure for those professions for which such a pathway should be established.

Sec. 7b. SPECIFIED PROFESSIONAL REGULATORY ENTITIES;
REPORT ON BRIDGE-TO-LICENSURE PROGRAMS FOR
CANADIAN CREDENTIALS

(a) The Office of Professional Regulation, the Agency of Education, the Agency of Human Services, the Agency of Natural Resources, the Department of Public Safety, and the Department of Health shall identify direct license equivalents, if any, to credentials issued by Canadian federal and provincial licensing bodies for professions licensed under the entity's authority and propose bridge-to-licensure programs where supplemental effort is needed to meet Vermont's licensing criteria.

(b) The Office of Professional Regulation and the Agency of Administration shall collaborate with the other agencies and departments specified in subsection (a) of this section in order to submit on or before January 15, 2020 a unified report that includes any recommended changes to statute to the Senate and House Committees on Government Operations, the Senate Committee on Economic Development, Housing and General Affairs, and the House Committee on Commerce and Economic Development.

Sec. 8. CREATION OF POSITION WITHIN THE OFFICE OF
PROFESSIONAL REGULATION; LICENSING

(a) There is created within the Secretary of State's Office of Professional Regulation one new permanent classified Licensing Administrator position.

(b) Any funding necessary to support the position created in subsection (a) of this section shall be derived entirely from the Office's Professional Regulatory Fee Fund.

* * * Accountants * * *

Sec. 9. 26 V.S.A. chapter 1 is amended to read:

CHAPTER 1. ACCOUNTANTS

Subchapter 1. General Provisions

* * *

§ 13. DEFINITIONS

As used in this chapter:

* * *

~~(4) “Disciplinary action” or “disciplinary cases” includes any action taken by a board against a licensee, registrant, or applicant premised upon a finding of wrongdoing or unprofessional conduct by the licensee or applicant. It includes all sanctions of any kind, excluding obtaining injunctions, but including issuing warnings, other similar sanctions, and ordering restitution. [Repealed.]~~

(5) “Firm” means a sole proprietorship, a corporation, a partnership, association, or any other entity that practices public accountancy.

~~(6) “Foreign firm” means a firm not located in the United States, its territories, or possessions. [Repealed.]~~

* * *

(14) “Sole proprietorship,” when used for the specific purpose of describing the fee category applicable to a firm under this chapter, means a firm that employs only one certified public accountant.

(15) “State” includes the states of the United States, the District of Columbia, Puerto Rico, Guam, the U.S. Virgin Islands, and other jurisdictions recognized by the National Association of State Boards of Accountancy (NASBA).

* * *

§ 17. PENALTY

Any person who violates any provision of section 14 of this ~~title~~ chapter shall be subject to the penalties set forth in 3 V.S.A. § 127(e).

* * *

Subchapter 3. Licenses

* * *

§ 74a. FOREIGN REGISTRATION

~~(a) A foreign firm licensed or registered in another country seeking to practice temporarily in the state shall register with the board and pay the required fee. The board shall adopt rules prescribing the procedure to be followed in carrying out the registrations. Registrations under this section shall expire three months after issuance. "Firm" is as defined in subdivision 13(5) of this title.~~

~~(b) A foreign firm providing public accounting services in the state of Vermont shall be registered and obtain a firm registration number.~~

~~(c) An accountant qualified for the practice of public accountancy in a foreign country may:~~

~~(1) use a title granted by that country, together with any suitable translation into English of that title, and the name of that country;~~

~~(2) temporarily practice public accounting after registering with the board under section 74a of this title. [Repealed.]~~

* * *

§ 81. OWNERSHIP OF ACCOUNTANT'S WORKING PAPERS

* * *

(d) An accountant or accountancy firm shall have in place a plan for responsible disposition of client records in case of unexpected incapacity or firm dissolution.

* * *

* * * Dental Hygienists * * *

Sec. 10. 26 V.S.A. chapter 12 is amended to read:

CHAPTER 12. DENTISTS, DENTAL THERAPISTS,
DENTAL HYGIENISTS, AND DENTAL ASSISTANTS

* * *

Subchapter 2. Board of Dental Examiners

* * *

§ 582. AUTHORITY OF THE BOARD

In addition to any other provisions of law, the ~~board~~ Board shall have the authority to:

* * *

(3) adopt rules pursuant to the Vermont Administrative Procedure Act as set forth in 3 V.S.A. chapter 25:

* * *

(H) ~~setting guidelines for general supervision of dental hygienists with no less than three years of experience by dentists with no less than three years of experience to,~~ to be known as “public-health hygienists,” who may perform tasks in public or private schools or institutions the settings set forth in section 624 of this chapter; and

* * *

Subchapter 4. Dental Hygienists

* * *

§ 624. PRACTICE

(a) A dental hygienist may perform duties for which the dental hygienist has been qualified by successful completion of the normal curriculum offered by programs of dental hygiene accredited by the American Dental Association or in continuing education courses approved by the Board. A dental hygienist may perform tasks in the office of any licensed dentist consistent with the rules adopted by the Board.

(b) ~~In public or private schools or institutions, a dental hygienist, who shall be a dental hygienist with no less fewer than three years of experience, may perform tasks under the general supervision of a licensed dentist with no less than three years of experience as prescribed in out-of-office settings, including residences, schools, nursing home and long-term care facilities, clinics, hospitals, medical facilities, community health centers licensed or approved by the Department of Health, Head Start programs, and any other facilities or programs deemed appropriate by the Department of Health in a manner consistent with guidelines adopted by the Board by rule.~~ A public-health hygienist, who shall be a dental hygienist with no less fewer than three years of experience, may perform tasks under the general supervision of a licensed dentist with no less than three years of experience as prescribed in out-of-office settings, including residences, schools, nursing home and long-term care facilities, clinics, hospitals, medical facilities, community health centers licensed or approved by the Department of Health, Head Start programs, and any other facilities or programs deemed appropriate by the Department of Health in a manner consistent with guidelines adopted by the Board by rule.

* * *

* * * Nursing * * *

Sec. 11. 26 V.S.A. chapter 28 is amended to read:

CHAPTER 28. NURSING

Subchapter 1. General Provisions

* * *

§ 1574. POWERS AND DUTIES

(a) In addition to the powers granted by 3 V.S.A. § 129, the Board shall:

* * *

(3) Adopt rules setting standards for approval of medication nursing assistant and nursing education programs in Vermont, including all clinical facilities. The Board may require reimbursement for actual and necessary costs incurred for site surveys.

(4) ~~Adopt rules for medication nursing assistant education and competency evaluation programs and survey and approve those programs that meet the rules. [Repealed.]~~

* * *

Subchapter 2. Advanced Practice Registered Nurses

* * *

§ 1613. TRANSITION TO PRACTICE

(a)(1) ~~Graduates~~ An APRN with fewer than 24 months and 2,400 hours of licensed active advanced nursing practice in an initial role and population focus or fewer than 12 months and 1,600 hours for any additional role and population focus shall have a formal agreement with a collaborating provider as required by ~~board~~ Board rule.

(2) ~~APRNs~~ An APRN shall have and maintain signed and dated copies of all required collaborative provider agreements as ~~part of the practice guidelines.~~

(3) An APRN required to practice with a collaborative provider agreement may not engage in solo practice, except with regard to a role and population focus in which the APRN has met the requirements of this subsection.

(b) An APRN who satisfies the requirements to engage in solo practice pursuant to subsection (a) of this section shall notify the ~~board~~ Board that these requirements have been met.

* * *

* * * Optometrists * * *

Sec. 12. 26 V.S.A. chapter 30 is amended to read:

CHAPTER 30. OPTOMETRY

* * *

§ 1703. DEFINITIONS

As used in this chapter:

* * *

(2) The “practice of optometry” means any one or combination of the following practices:

(A) ~~The examination of~~ Examining the human eyes and visual system for purposes of:

(i) diagnosing refractive and functional ability; or

(ii) diagnosing the presence of eye and adnexa disease or injury, treating the disease or injury with the appropriate pharmaceutical agents and procedures in accordance with this chapter, and making referrals to the appropriate health care provider when warranted.

(B) ~~The diagnosis and correction of~~ Diagnosing and correcting anomalies of the refractive and functional ability of the visual system and the enhancement of visual performance including, ~~but not limited to,~~ the following:

(i) ~~the prescribing and employment of~~ using ophthalmic lenses, prisms, autorefractor or other automatic testing devices, frames, ophthalmic aids, and prosthetic materials as consistent with the health of the eye;

(ii) ~~the prescribing and employment of~~ employing contact lenses;
and

(iii) administering visual training, vision therapy, orthoptics, and pleoptics.

(C) Prescribing appropriate pharmaceutical agents for the diagnosis, management, and treatment of the eye and adnexa.

(D) Removing superficial foreign bodies from the eye and adnexa; epilating the eyelashes, including by electrolysis; and punctal dilation, lacrimal irrigation, and punctal plugs insertion.

(E) Managing the following types of glaucoma in patients who are 16 years of age or older:

(i) adult primary open angle glaucoma;

(ii) exfoliative glaucoma;

(iii) pigmentary glaucoma;

(iv) low tension glaucoma;

(v) inflammatory (uveitic) glaucoma; and

(vi) emergency treatment of angle closure glaucoma.

(3) ~~“Disciplinary action” or “disciplinary cases” includes any action taken by a board against a licensee or applicant premised upon a finding of wrongdoing or unprofessional conduct by the licensee or applicant. It includes all sanctions of any kind, including obtaining injunctions, issuing warnings, reprimands, suspensions, or revocations of licenses, and other similar sanctions and ordering restitution.~~ “Director” means the Director of the Office of Professional Regulation.

(4) “Financial interest” means being:

(A) a licensed practitioner of optometry; or

(B) a person who deals in goods and services ~~which~~ that are uniquely related to the practice of optometry; or

(C) a person who has invested anything of value in a business ~~which~~ that provides optometric services.

(5) “Contact lenses” means those lenses that are worn for cosmetic, therapeutic, or refractive purposes.

§ 1704. PENALTIES

A person who obtains a license by fraud or misrepresentation or who practices or attempts to practice optometry or hold himself or herself out as being able to do so in this ~~state~~ State without first having obtained the license required by this chapter shall be subject to the penalties provided in 3 V.S.A. § 127(e).

Subchapter 2. State Board of Optometry Board

§ 1707. QUALIFICATIONS; TERM OF OFFICE; REMOVAL

(a) ~~A state board of optometry~~ The State Board of Optometry is created ~~which shall be the continuation of and successor to the state board of examiners in optometry heretofore established by chapter 29 of this title.~~

(b) The ~~board~~ Board shall consist of five members, three of whom shall be residents of the ~~state,~~ State ~~who~~ have had at least five years’ experience in the practice of optometry in the ~~state,~~ State and are in the active practice of optometry at the time of their appointment; and two members who shall be representatives of the public, who shall be residents of the ~~state~~ State for five years and who shall have no financial interest in the profession other than as a consumer or potential consumer of its services.

* * *

§ 1708. POWERS AND DUTIES

(a) The ~~board~~ Board shall:

(1) ~~Adopt rules under 3 V.S.A. chapter 25 the Vermont Administrative Procedure Act necessary for the performance of its duties, ensuring that at least the following are established by statute or rule:~~

(A) ~~A a definition of the behavior for which a license is required;~~

(B) ~~Explanations explanations of appeal and other significant rights given by law to licensees, applicants, and the public; and~~

(C) ~~standards for acceptance of continuing education, which may identify mandatory content specific to pharmacology, and management of adverse drug reactions.~~

(b) The ~~board~~ may:

(1) ~~exercise authority granted under 3 V.S.A. chapter 5.;~~

(2) ~~use the administrative services provided by the office of professional regulation under 3 V.S.A. chapter 5.;~~

(3) ~~Receive legal assistance from the attorney general of the state and from the legal counsel for the director of the office of professional regulation. [Repealed.]~~

(c) The ~~board~~ Board shall not limit the:

(1) ~~limit the ownership of optometric practices to licensed optometrists;~~

(2) ~~limit the number of offices or sites at which an optometrist may practice; or~~

(3) ~~limit the right of optometrists to practice in an association, partnership, corporation, or other lawful entity with anyone.~~

* * *

Subchapter 3. Examinations and Licenses

* * *

§ 1715. LICENSURE BY EXAMINATION

(a) The ~~board~~ Board may grant a license to an applicant who:

(1) has attained the age of majority;

(2) is a graduate of an optometric school or college accredited by a regional or professional accreditation organization approved by the ~~board~~ Board;

(3) holds a current cardiopulmonary resuscitation certification from the

American Red Cross, the Vermont Heart Association, or a comparable source recognized by the Director;

(4) has successfully completed an examination approved by the ~~board~~ Board; and

~~(4)~~(5) has paid the fee required by section 1718 of this ~~title~~ chapter.

~~(b) A failed examination may be retaken once free of charge and each examination thereafter shall be subject to payment of a fee. [Repealed.]~~

* * *

§ 1716a. RENEWAL

Licenses shall be renewed every two years upon payment of the required fee, provided that the person applying for renewal completes at least ~~20~~ 40 hours of continuing education, approved by the ~~board~~ Board, during the preceding two-year period and holds a current cardiopulmonary resuscitation certification. ~~If the applicant has a special endorsement for the use of pharmaceutical agents as provided in section 1729 of this title, the applicant shall, during the preceding two-year period, complete at least 40 hours of continuing education, approved by the board, of which at least 20 hours shall be related to the use of therapeutic pharmaceutical agents. The board may specify particular areas of study which must be completed to satisfy the requirements of this section. The board may, by rule, adopt continuing education requirements for those who renew their licenses after less than a full two-year period.~~

* * *

Subchapter 4. Unprofessional Conduct and Discipline

§ 1719. UNPROFESSIONAL CONDUCT

(a) Unprofessional conduct is the conduct prohibited by this section and by 3 V.S.A. § 129a, whether or not taken by a license holder committed by a licensee, an applicant, or a person who later becomes an applicant.

(b) Unprofessional conduct means:

(1) Conduct ~~which~~ that evidences moral unfitness to practice the occupation.

(2) Any of the following except when reasonably undertaken in an emergency situation in order to protect life, health, or property:

(A) Practicing or offering to practice beyond the scope permitted by law.

(B) Performing treatments or providing services ~~which that~~ a licensee is not qualified to perform or ~~which that~~ are beyond the scope of the licensee's education, training, capabilities, experience, or scope of practice.

(C) Performing occupational services ~~which that~~ have not been authorized by the consumer or his or her legal representative.

* * *

Subchapter 5. Diagnostic Pharmaceutical Agents

* * *

§ 1727. EXPIRATION DATE

(a) An optometrist shall state the expiration date on the face of every prescription written by that optometrist for contact lenses. The expiration date shall be one year after the examination date unless a medical or refractive problem affecting vision requires an earlier expiration date.

(b) An optometrist ~~may~~ shall not refuse to give the buyer a copy of the buyer's prescription after the expiration date; however, the copy shall be clearly marked to indicate that it is an expired prescription.

Subchapter 6. Therapeutic Pharmaceutical Agents

§ 1728. USE OF THERAPEUTIC PHARMACEUTICAL AGENTS

~~(a) An optometrist licensed under this chapter who possesses the endorsement required under section 1729 of this title, may:~~

~~(1) use and prescribe appropriate pharmaceutical agents for the diagnosis, management, and treatment of the eye and adnexa.~~

~~(2) remove superficial foreign bodies from the eye and adnexa, perform epilation of the eyelashes including electrolysis, punctal dilation, and lacrimal irrigation, and insert punctal plugs.~~

~~(b) Nothing in this subchapter shall be construed to permit:~~

~~(1) the use of therapeutic ultrasound, the use of injections except for the appropriate emergency stabilization of a patient, or the performance of surgery. "Surgery" means any procedure in which human tissue is cut, penetrated, thermally or electrically cauterized except when performing electrolysis, or otherwise infiltrated by mechanical or laser means in a manner not specifically authorized by this act;~~

~~(2) the use of lasers for any procedure other than diagnostic testing; or~~

~~(3) a licensee to perform indocyanine green angiography, removal of benign skin lesions involving subcutaneous injections, sub-tenons injections,~~

~~retrobulbar injections, intraocular injections, ketamine (IM) for an infant's examination under anesthesia, management of skin and conjunctival neoplasms, and botox injections.~~

(a)(1) A licensee who employs an oral therapeutic pharmaceutical agent that might prove to have significant systemic adverse reactions or systemic side effects shall, in a manner consistent with Vermont law, ascertain the risk of systemic side effects through either a case history or by communicating with the patient's primary care provider.

(2) The licensee shall also communicate with the patient's primary care provider, or with a physician skilled in diseases of the eye, when, in the professional judgment of the licensee, it is medically appropriate.

(3) Any communication shall be noted in the patient's permanent record. The methodology of communication shall be determined by the licensee.

(b)(1) If a glaucoma patient does not respond to up to three topically administered pharmaceutical agents within a reasonable time, the licensee shall refer the patient to a licensed ophthalmologist.

(2) A glaucoma patient shall not be treated by an optometrist with more than three topically administered agents at any given time.

(3) If an oral medication is required to obtain an adequate clinical response in a glaucoma patient, the licensee shall consult with a licensed ophthalmologist as soon as clinically prudent following initiation of the oral medication.

(4) This subsection shall not require that the licensee transfer care of the patient to the consulting ophthalmologist, but does require that the patient be seen by the consulting ophthalmologist.

~~§ 1728a. PERMISSIBLE TREATMENTS; GLAUCOMA TYPES~~

~~(a) A licensee may treat the following types of glaucoma on patients who are 16 years of age or older:~~

- ~~(1) adult primary open angle glaucoma;~~
- ~~(2) exfoliative glaucoma;~~
- ~~(3) pigmentary glaucoma;~~
- ~~(4) low tension glaucoma;~~
- ~~(5) inflammatory (uveitic) glaucoma; and~~
- ~~(6) emergency treatment of angle closure glaucoma.~~

~~(b) This section shall not prohibit a licensee from administering appropriate emergency stabilization treatment to a patient. [Repealed.]~~

~~* * *~~

~~§ 1728c. USE OF ORAL THERAPEUTIC PHARMACEUTICAL AGENT;
COMMUNICATION WITH PRIMARY CARE PROVIDER~~

~~A licensee who employs an oral therapeutic pharmaceutical agent that might prove to have significant systemic adverse reactions or systemic side-effects shall, in a manner consistent with Vermont law, ascertain the risk of systemic side effects through either a case history or by communicating with the patient's primary care provider. The licensee shall also communicate with the patient's primary care provider, or with a physician skilled in diseases of the eye, when in the professional judgment of the licensee, it is medically appropriate. The communication shall be noted in the patient's permanent record. The methodology of communication shall be determined by the licensee. [Repealed.]~~

~~§ 1728d. DURATION OF GLAUCOMA TREATMENT WITHOUT
REFERRAL~~

~~(a) If a glaucoma patient does not respond to up to three topically administered pharmaceutical agents within a reasonable time, the licensee shall refer the patient to a licensed ophthalmologist. No glaucoma patient shall be treated by an optometrist with more than three topically administered agents at any given time.~~

~~(b) If an oral medication is required to obtain an adequate clinical response, the licensee shall consult with a licensed ophthalmologist as soon as clinically prudent following initiation of the oral medication. This section shall not require that the licensee transfer care of the patient to the consulting ophthalmologist, but does require that the patient be seen by the consulting ophthalmologist. [Repealed.]~~

~~§ 1729. ENDORSEMENTS AND REQUIREMENTS~~

~~(a) Upon application, the board shall certify eligible licensees to use and prescribe therapeutic drugs and to perform those procedures authorized by subdivision 1728(a)(2) of this title, if the applicant meets the requirements of section 1715 of this chapter for licensure by examination or meets the requirements of section 1716 of this chapter for licensure by endorsement, and is authorized under the license of another jurisdiction to use therapeutic pharmaceutical agents.~~

~~(b) A licensee certified under this section shall affix current documentation of certification to the license in the manner provided by the board.~~

~~(c) A licensee who is certified to use therapeutic pharmaceutical agents shall demonstrate proof of current cardiopulmonary resuscitation certification as a condition of initial certification and of license renewal. Acceptable courses shall include:~~

~~(1) courses in external cardiopulmonary resuscitation which are approved by the Vermont Heart Association or the American Red Cross; and~~

~~(2) courses which include a review of diseases or conditions which might produce emergencies such as anaphylactic shock, diabetes, heart condition, or epilepsy.~~

~~(d) A licensee certified to use therapeutic pharmaceutical agents shall, as part of required continuing education, receive not less than 50 percent of his or her continuing education in the use of pharmaceuticals, including treating possible complications arising from their use, and the treatment of glaucoma. [Repealed.]~~

§ 1729a. PREREQUISITES TO TREATING GLAUCOMA

~~A licensee who is already certified to use therapeutic pharmaceutical agents and who graduated from a school of optometry prior to 2003 and is not certified in another jurisdiction having substantially similar prerequisites to treating glaucoma shall, in addition to being certified to use therapeutic pharmaceutical agents, provide to the board verification of successful completion of an 18-hour course and examination offered by the State University of New York State College of Optometry or similar accredited institution. Successful completion shall include passing an examination substantially equivalent to the relevant portions on glaucoma and orals of the examination given to current graduates of optometry school and shall require the same passing grade. The course shall cover the diagnosis and treatment of glaucoma and the use of oral medications and shall be taught by both optometrists and ophthalmologists. In addition, the licensee shall collaborate with an optometrist who has been licensed to treat glaucoma for at least two years or an ophthalmologist regarding his or her current glaucoma patients for six months and at least five new glaucoma patients before treating glaucoma patients independently. These five new glaucoma patients shall be seen at least once by the collaborating glaucoma-licensed optometrist or ophthalmologist. [Repealed.]~~

Sec. 13. OFFICE OF PROFESSIONAL REGULATION; STUDY OF OPTOMETRIC ADVANCED PROCEDURES

(a) The Office of Professional Regulation shall conduct a study to evaluate the safety and public health needs of enlarging the scope of practice of

optometrists to include advanced procedures. In conducting this study, the Office shall consult with relevant stakeholders, including the Vermont Board of Optometry, the Vermont Optometric Association, the Vermont Board of Medical Practice, the Vermont Department of Health, and the Vermont Ophthalmological Society.

(b) The study shall evaluate, among other considerations, approaches to advanced procedures in jurisdictions outside Vermont, patient need for access to additional practitioners, effects on patient access to care, effects on patient safety, costs to the health care system, and the existing education and training for optometrists, including the degree to which it addresses training in advanced procedures. The Office shall inquire into the specific clinical training for both optometrists and ophthalmologists for specific procedures.

(c) On or before January 15, 2020, the Office shall report its findings, including any recommendations for legislative action, to the House Committees on Government Operations and on Health Care and to the Senate Committees on Government Operations and on Health and Welfare.

* * * Pharmacy * * *

Sec. 14. 26 V.S.A. chapter 36 is amended to read:

CHAPTER 36. PHARMACY

Subchapter 1. General Provisions

* * *

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(7) “Drug outlet” means all pharmacies, wholesalers, manufacturers, and other entities that are engaged in the manufacture, dispensing, delivery, or distribution of prescription drugs.

* * *

(11)(A) “Manufacturing” means the production, preparation, propagation, conversion, or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis.

(B) “Manufacturing” includes the packaging or repackaging of a drug or device ~~or~~; the labeling or relabeling of the container of a drug or device for resale by a pharmacy, practitioner, or other person; and virtual

manufacturing by an entity that sells its own prescription drug or device without physically possessing the product.

* * *

(19)(A) “Wholesale distributor” means any person who is engaged in wholesale distribution of prescription drugs, ~~but~~ including virtual distribution by an entity that sells a prescription drug or device without physically possessing the product.

(B) “Wholesale distributor” does not include any for-hire carrier or person hired solely to transport prescription drugs.

* * *

Subchapter 2. Board of Pharmacy

§ 2031. CREATION; APPOINTMENT; TERMS; ORGANIZATION

(a)(1) There is hereby created the Board of Pharmacy to enforce the provisions of this chapter.

(2) The Board shall consist of ~~seven~~ eight members, five of whom shall be pharmacists licensed under this chapter with five years of experience in the practice of pharmacy in this State. One member shall be a pharmacy technician registered under this chapter. Two members shall be members of the public having no financial interest in the practice of pharmacy.

(b) Members of the Board shall be appointed by the Governor pursuant to 3 V.S.A. §§ 129b and 2004.

§ 2032. POWERS; DUTIES; LIMITATIONS

(a) The Board shall adopt rules necessary for the performance of its duties, including:

- (1) scope of the practice of pharmacy;
- (2) qualifications for obtaining licensure;
- (3) explanations of appeal and other rights given to licensees, applicants, and the public; ~~and~~
- (4) rules regulating pharmacy technicians; and
- (5) provisions for the inspection of any regulated entity or commercial location where legend drugs are manufactured or kept.

* * *

(c) The Board of Pharmacy shall also have the following responsibilities in regard to medications, drugs, legend devices, and other materials used in this

State in the diagnosis, mitigation, and treatment or prevention of injury, illness, and disease:

(1) ~~The the regulation of the sale at retail and the, compounding, administration, and dispensing of medications, drugs, legend devices, and other materials, including the right to seize any such drugs, legend devices, and other materials found to be detrimental to the public health and welfare by the Board pursuant to an appropriate hearing as required under the Administrative Procedure Act;~~

(2) ~~The the specifications of minimum professional and technical equipment, environment, supplies, and procedures for the compounding or dispensing of such medications, drugs, legend devices, and other materials within the practice of pharmacy;~~

(3) ~~The the control of the purity and quality of such medications, drugs, legend devices, and other materials within the practice of pharmacy; and~~

(4) ~~The the issuance of certificates of registration and licenses of drug outlets; and~~

(5) ~~The development of criteria for a standardized tamper-resistant prescription pad that can be used by all health care providers who prescribe drugs. Such criteria shall be developed in consultation with pharmacists, hospitals, nursing homes, physicians and other prescribers, and other affected parties.~~

* * *

Subchapter 3. Licensing

* * *

§ 2042b. PHARMACY TECHNICIANS; NONDISCRETIONARY TASKS; SUPERVISION

~~(a) Notwithstanding any other provision of law, a registered pharmacy technician may perform packaging or other nondiscretionary tasks only while assisting and under the supervision and control of a pharmacist.~~

~~(b) This section does not authorize a pharmacy technician to perform packaging or other nondiscretionary tasks without a pharmacist on duty, and without being under the supervision and control of a pharmacist.~~

~~(c) This section does not authorize a pharmacy technician to perform any act requiring the exercise of professional judgment by a pharmacist.~~

~~(d) The Board may adopt rules to specify tasks that a pharmacy technician~~

~~may perform under the supervision and control of a pharmacist pursuant to subsection (a) of this section. A pharmacy or pharmacist that employs a pharmacy technician to perform tasks specified in subsection (a) shall do so in conformity with the rules adopted by the Board pursuant to this section.~~

~~(e) [Repealed.]~~

~~(f)(1) A pharmacist on duty shall be directly responsible for the conduct of a pharmacy technician.~~

~~(2) A pharmacist responsible for a pharmacy technician shall be on the premises at all times, or in the case of a remote pharmacy approved by the Board, immediately available by a functioning videoconference link.~~

~~(3) A pharmacist shall verify a prescription before medication is provided to the patient. [Repealed.]~~

* * *

Subchapter 5. Registration of Facilities

§ 2061. REGISTRATION AND LICENSURE

(a) All drug outlets shall biennially register with the Board of Pharmacy.

(b) Each drug outlet shall apply for a license in one or more of the following classifications:

- (1) Retail.
- (2) Institutional.
- (3) Manufacturer.
- (4) Wholesale distributor.
- (5) Investigative and research projects.
- (6) Compounding.
- (7) Outsourcing.
- (8) Home infusion.
- (9) Nuclear.
- (10) Third-party logistics provider.

* * *

Subchapter 6. Wholesale Distributors and Manufacturers

§ 2067. WHOLESALE DISTRIBUTOR DISTRIBUTORS AND MANUFACTURERS; LICENSURE REQUIRED

(a) A person who is not licensed under this subchapter shall not engage in wholesale distribution or manufacturing in this State.

* * *

(c) The Board may require a separate license for each facility directly or indirectly owned or operated by the same business entity ~~within this State~~, or for a parent entity with divisions, subsidiaries, or affiliate companies ~~within this State~~ when operations are conducted at more than one location and there exists joint ownership and control among all the entities.

(d) An agent or employee of any licensed wholesale distributor or manufacturer shall not be required to obtain a license under this subchapter and may lawfully possess pharmaceutical drugs when that agent or employee is acting in the usual course of business or employment.

§ 2068. REQUIREMENTS; APPLICANTS; LICENSES

An applicant shall satisfy the ~~board~~ Board that it has, and licensees shall maintain, the following:

(1) Acceptable storage and handling conditions plus facilities standards.

(2) Minimum liability and other insurance as may be required under any applicable federal or state law.

(3) A security system ~~which~~ that includes after hours, central alarm or comparable entry detection capability, restricted premises access, adequate outside perimeter lighting, comprehensive employment applicant screening, and safeguards against employee theft.

(4) An electronic, manual, or any other reasonable system of records, describing ~~all wholesale distributor~~ activities governed by this subchapter for the two-year period following disposition of each product, which shall be reasonably accessible, as defined by the ~~board~~ Board by rule, during any inspection authorized by the ~~board~~ Board.

(5) Officers, directors, managers, and other persons in charge of wholesale drug distribution, manufacture, storage, and handling, who shall at all times demonstrate and maintain their capability to conduct business according to sound financial practices as well as state and federal law.

* * *

(9) Operations in compliance with all federal requirements ~~applicable to wholesale drug distribution~~.

(10)(A) Compliance with standards and procedures ~~which~~ that the ~~board~~ Board shall adopt by rule concerning provisions for initial and periodic on-site

inspections, criminal and financial background checks, ongoing monitoring, reciprocity for out-of-state ~~wholesale drug distributors~~ entities inspected by a third party organization recognized by the ~~board~~ Board or inspected and licensed by a ~~state~~ State licensing authority with legal standards for licensure that are comparable to the standards adopted by the ~~board~~ Board pursuant to this subdivision (10), protection of a ~~wholesale drug distributor's~~ proprietary information, and any other requirements consistent with the purposes of this subdivision (10).

(B) The ~~board~~ Board rules may recognize third party accreditation in satisfaction of some or all of the requirements of this subdivision (10).

* * *

§ 2076. INSPECTION POWERS; ACCESS TO WHOLESALE DISTRIBUTOR AND MANUFACTURER RECORDS

(a) A person authorized by the Board may enter, during normal business hours, all open premises purporting or appearing to be used by a wholesale distributor or manufacturer for purposes of inspection.

(b)(1) Wholesale distributors and manufacturers may keep records regarding purchase and sales transactions at a central location apart from the principal office of the wholesale distributor or the location at which the drugs were stored and from which they were shipped, provided that such records shall be made available for inspection within two working days of a request by the Board.

(2) Records may be kept in any form permissible under federal law applicable to prescription drugs record keeping.

* * *

Sec. 15. OFFICE OF PROFESSIONAL REGULATION; EVALUATION OF PHARMACIST PRESCRIBING AUTHORITY

(a) The Office of Professional Regulation shall evaluate the costs and benefits of incorporating prescribing authority into the scope of practice of licensed pharmacists. This evaluation shall be conducted in consultation with relevant stakeholders and shall include consideration of:

(1) approaches to clinical pharmacy in jurisdictions outside Vermont;

(2) potential impacts on patient safety and on primary and preventive care delivered by other health care professionals;

(3) effects on patient access to care; and

(4) the appropriate extent, if any, of the prescribing authority.

(b) On or before January 15, 2020, the Office shall report its findings and any recommendations for legislative action to the House and Senate Committees on Government Operations, the House Committee on Health Care, and the Senate Committee on Health and Welfare.

* * * Real Estate Brokers and Salespersons * * *

Sec. 16. 26 V.S.A. chapter 41 is amended to read:

CHAPTER 41. REAL ESTATE BROKERS AND SALESPERSONS

Subchapter 1. General Provisions

* * *

§ 2213. PENALTIES

A person who shall violate any provision of this chapter shall be subject to the penalties provided in 3 V.S.A. § 127(e).

* * *

Subchapter 3. Licenses

* * *

§ 2292. ELIGIBILITY

* * *

(b)(1) A license as a real estate salesperson shall be granted to a person who satisfies all of the following:

~~(A)(1)~~ has passed an examination as required by the Commission;

~~(B)(2)~~ is at least 18 years of age;

~~(C)(3)~~ has been employed by or become associated with a brokerage firm and that firm's principal broker; and

~~(D)(4)~~ has completed a course of instruction, approved by the Commission, of at least 40 hours.

~~(2)(A) An initial salesperson license shall expire 90 days from issuance.~~

~~(B) The license of a salesperson who has provided documentation to the Commission showing successful completion of eight hours of instruction addressing topics specified by the Commission relating to the salesperson's postlicensure practice of the profession shall be renewed without application or fee and remain valid until the end of the biennial licensing period.~~

~~(3) Has been employed by or become associated with a brokerage firm and that firm's principal broker.~~

~~(4) Has completed a course of instruction, approved by the Commission, of at least 40 hours.~~

~~* * *~~

§ 2293. RENEWAL OF LICENSE; EXPIRED LICENSE

~~(a) Licenses shall be renewed every two years without examination and on payment of the required fees, provided that the person applying for renewal completes at least 24 hours of instruction for brokers and 16 hours of instruction for salespersons, approved by the Commission, during the preceding two-year period. Four hours of this continuing education instruction shall address legislation and other topics specified by the Commission for each renewal period.~~

~~(b)(1) A broker or salesperson applying for reinstatement of a license that has expired shall be assessed both the renewal fee and late renewal penalty established by the Director of the Office of Professional Regulation and shall not be assessed renewal fees for the years during which the license was expired.~~

~~(2) Reinstatement shall not take place until the applicant completes the continuing education required for the previous renewal period.~~

~~(c)(1) If a broker or salesperson's license has expired for greater than five consecutive years, the broker or salesperson shall apply for reinstatement in accordance with the initial licensure requirements as set forth in section 2292 of this chapter, including a course of instruction and examination.~~

~~(2) The Commission may waive the reinstatement requirements based upon licensed practice in another state.~~

~~(d) The Commission may waive or postpone compliance with the instructional requirements of this section in cases of extreme hardship on the part of the licensee. No licensee, however, may receive a postponement or waiver for two successive two-year periods of licensure. The Commission may accept fewer hours of continuing education instruction for renewal of a license on a prorated basis following an initial licensing period of less than two years.~~

~~(e) [Repealed.]~~

~~* * *~~

§ 2296. UNPROFESSIONAL CONDUCT

~~Unprofessional conduct means the following conduct and In addition to the conduct set forth in 3 V.S.A. § 129a, the following conduct by those regulated under this chapter constitutes unprofessional conduct:~~

~~(1) makes a material misstatement in the application for his or her license;~~

~~(2) uses dishonest or misleading advertising;~~

~~(3) demonstrates incompetency to act as a real estate broker or salesperson;~~

~~(4) is found by the Commission to be guilty of fraud or fraudulent practices; or is convicted for violating this chapter; or is convicted of forgery, embezzlement, obtaining money under false pretenses, or conspiring to defraud;~~

~~(5) commingles commingling money or other property to which the licensee's clients or other persons are entitled with the licensee's own, except to the extent nominal sums of the licensee's funds may be required to maintain an open trust account;~~

~~(6)(2) fails failing to inform clients, establish trust and escrow accounts, maintain records, and otherwise act in accordance with the provisions of section 2214 of this chapter with respect to all monies received by the licensee as a real estate broker, or as escrow agent, or as the temporary custodian of the funds of others, in a real estate transaction;~~

~~(7)(3) fails failing promptly to segregate any properties received that are to be held for the benefit of others;~~

~~(8) is found by the Commission to have engaged in any act or conduct, whether of the same or different character as that described in this section, that contributes to or demonstrates incompetency or dishonest fraudulent dealings;~~

~~(9)(4) fails failing to fully disclose to a buyer all material facts within the licensee's knowledge concerning the property being sold;~~

~~(10)(5) fails failing to fully disclose to a buyer the existence of an agency relationship between the licensee and the seller.~~

* * *

* * * Opticians * * *

Sec. 17. 26 V.S.A. chapter 47 is amended to read:

CHAPTER 47. OPTICIANS

* * *

Subchapter 2. Administration

§ 2661. POWERS AND DUTIES OF THE DIRECTOR; ~~DUTIES~~

- (a) The ~~director~~ Director shall:
- (1) provide general information to applicants for licensure as opticians;
 - (2) explain appeal procedures to opticians and applicants and complaint procedures to the public;
 - (3) administer fees established by law;
 - (4) receive applications for licensure, issue licenses, to applicants qualified under this chapter, deny or renew licenses and issue, revoke, suspend, condition, and reinstate licenses as ordered by an administrative law officer;
 - (5) refer ~~complaints and disciplinary matters to~~ for adjudication by an administrative law officer;
 - (6) conduct or specify examinations and pass upon the qualifications of applicants for reciprocal registration;
 - (7) conduct hearings as necessary for the issuance, renewal, or discipline of a license; and
 - (8) establish by rule standards of education required of applicants, as well as minimum standards for any school presenting a course for present or future opticians.
- (b) The ~~director~~ Director may, after consultation with the advisor appointees, adopt rules necessary to perform the director's duties under this chapter, including rules governing apprenticeship and continuing education. Rules adopted under this section shall not prohibit lawful advertising, the display of ophthalmic materials or merchandise, limit the place or location where opticians may practice, nor be designed to limit the number of opticians in the State.

* * *

§ 2665. ~~POWERS AND DUTIES OF THE DIRECTOR~~

- (a) ~~The Director shall:~~
- (1) ~~adopt only those rules necessary for the full and efficient performance of its duties;~~
 - (2) ~~conduct examinations and pass upon the qualifications of applicants for reciprocal registration;~~
 - (3) ~~establish standards of education required of applicants for licensing and establish, by appropriate rules, the minimum standards for any school presenting a course for present or future opticians;~~
 - (4) ~~conduct any necessary hearings in connection with the issuance,~~

renewal, suspension, or revocation of a license;

(5) ~~[Repealed.]~~

(6) ~~adopt rules establishing continuing education requirements and approve continuing education programs to assist a licensee in meeting these requirements.~~

(b) ~~The Director shall not:~~

(1) ~~adopt any rules prohibiting lawful advertising, the display of ophthalmic materials or merchandise, or limiting the place or location where opticians may practice; or~~

(2) ~~adopt any rules specifically designed to limit the number of opticians in this State. [Repealed.]~~

* * *

Subchapter 3. Licenses

§ 2671. APPLICATIONS

Any person who desires to ~~practice as an optician~~ be licensed under this chapter shall ~~file a written~~ submit an application for a license and the application as specified by the Director, accompanied by payment of the required fee with the office on forms provided by the office. An applicant shall submit satisfactory proof that he or she meets the qualifications under section 2672 of this ~~title chapter~~.

§ 2672. QUALIFICATIONS

~~No~~ A person may ~~shall not~~ be examined or licensed under this chapter, except as otherwise provided in this chapter, unless ~~the applicant has attained the age of majority~~ he or she has obtained a high school education or its equivalent and possesses the following qualifications:

(1) Education. Has completed:

(A) ~~Has obtained a high school education or its equivalent and has completed~~ at least a two-year course of study in a school of ophthalmic dispensing approved by the ~~board~~ Director or a school ~~which~~ that is a candidate for accreditation by an accreditation agency approved by the United States Department of Education and by the ~~director~~ Director; or

(2)(B) ~~Has completed three~~ at least two years of practical training and experience, approved by the ~~director~~ Director, under the supervision of a licensed optician, ophthalmologist, or optometrist; or

(C) the National Academy of Opticianry Ophthalmic Career

Progression Program, including at least one year of practical training and experience, approved by the Director, under the supervision of a licensed optician, ophthalmologist, or optometrist; and

(2) Examination. Has passed an examination recognized by the Director that shall include assessment of competency in ophthalmic materials; laboratory, practical, and physiological optics; prescription interpretation; dispensing preparation; adjustment of lenses, spectacles, eyeglasses, prisms, tinted lenses, and appurtenances; the use of lensometers or equivalent instruments; adjusting instruments; and pupillary and facial measurements.

§ 2673. EXAMINATION; LICENSES

~~(a) Examinations for licenses shall be conducted at least once each year and shall be devised in form and substance to evaluate fairly the applicant's qualifications to practice as a licensed optician. The examination shall include, but not be limited to, ophthalmic materials, laboratory, practical and physiological optics, prescription interpretation, dispensing preparation, adjustment of lenses, spectacles, eyeglasses, prisms, tinted lenses, and appurtenances, the use of lensometers or equivalent instruments, adjusting instruments, and pupillary and facial measurements.~~

~~(b) Any applicant passing the examination and meeting the requirements established by the director shall be issued a license under this chapter. [Repealed.]~~

* * *

* * * Radiology * * *

Sec. 18. 26 V.S.A. chapter 51 is amended to read:

CHAPTER 51. RADIOLOGY

Subchapter 1. General Provisions

§ 2801. DEFINITIONS

As used in this chapter:

(1) ~~“Board”~~ “Director” means the ~~board of radiologic technology~~ Director of the Office of Professional Regulation.

(2) “Practice of radiologic technology” means the practice of:

- (A) radiography; ~~or~~
- (B) nuclear medicine technology; or
- (C) radiation therapy.

(3) “Practice of radiography” means the direct application of ionizing radiation to human beings.

(4) “Practice of nuclear medicine technology” means the act of giving a radioactive substance to a human being or the act of performing associated imaging procedures, or both.

(5) “Practice of radiation therapy” means the direct application of ionizing radiation to human beings for therapeutic purposes or the act of performing associated imaging procedures, or both.

(6) “Licensed practitioner” means a person licensed under this title to practice medicine, osteopathy, advanced practice registered nursing, dentistry, podiatry, naturopathic medicine, or chiropractic.

(7) “Financial interest” means being:

(A) a licensed practitioner of radiologic technology; ~~or~~

(B) a person who deals in goods and services ~~which~~ that are uniquely related to the practice of radiologic technology; or

(C) a person who has invested anything of value in a business ~~which~~ that provides radiologic technology services.

(8) “Unauthorized practice” means conduct prohibited by section 2802 of this ~~title~~ chapter and not exempted by section 2803 of this ~~title~~ chapter.

(9) “Direct ~~personal~~ supervision” means that the person being supervised remains in the physical presence of the supervisor at all times.

(10) “General supervision” means that the supervisor is readily available for consultation or intervention on the premises where radiologic technology services are being provided.

(11) “ARRT” means the American Registry of Radiologic Technologists.

(12) “NMTCB” means the Nuclear Medicine Technologist Certification Board.

(13) “Office” means the Office of Professional Regulation.

§ 2802. PROHIBITIONS

(a) [Repealed.]

(b) ~~No~~ A person shall not practice radiologic technology unless he or she is licensed in accordance with the provisions of this chapter.

(c) ~~No~~ A person shall not practice radiography without a license for

radiography ~~from the board~~ unless exempt under section 2803 of this ~~title chapter~~.

(d) [Repealed.]

(e) ~~No~~ A person shall not practice nuclear medicine technology without a license for that purpose ~~from the board~~ unless exempt under section 2803 of this ~~title chapter~~.

(f) ~~No~~ A person shall not practice radiation therapy technology without a license for that purpose ~~from the board~~ unless exempt under section 2803 of this ~~title chapter~~.

§ 2803. EXEMPTIONS

The prohibitions in section 2802 of this chapter shall not apply to dentists licensed under chapter 12 of this title and actions within their scope of practice nor to:

(1) Licensed practitioners acting within the scope of practice for their licensed field, provided that their practice acts and rules adopted thereunder make provisions for have been expressly found by the Director, in consultation with advisors appointed under this chapter, to match or surpass the training in radiation safety and proper radiation practices determined in consultation with the Board required by this chapter and rules adopted under this chapter.

* * *

(5) Any of the following when operating dental radiographic equipment to conduct intraoral radiographic examinations under the general supervision of a licensed practitioner; and any of the following when operating dental radiographic equipment to conduct specialized radiographic examinations, including tomographic, cephalometric, or temporomandibular joint examinations, if the person has completed a course in radiography approved by the Board of Dental Examiners and practices under the general supervision of a licensed practitioner:

* * *

(D) a student of dental therapy, dental hygiene, or dental assisting as part of the training program when ~~directly supervised by~~ under the direct supervision of a licensed dentist, licensed dental therapist, licensed dental hygienist, or registered dental assistant.

* * *

(7) Researchers operating bone densitometry equipment for body composition upon successful completion of courses on body composition and

radiation safety approved by the ~~Board Director~~. The ~~Board Director~~ shall not require this coursework to exceed eight hours. The ~~Board Director~~ may consider other exemptions from licensure for bona fide research projects subject to course and examination requirements as deemed necessary for public protection.

§ 2804. COMPETENCY REQUIREMENT OF CERTAIN LICENSED PRACTITIONERS

(a) Unless the requirements of subdivision 2803(1) of this chapter have been satisfied, a ~~physician, as defined in chapter 23 of this title; podiatrist, as defined in chapter 7 of this title; chiropractic physician, as defined in chapter 10 of this title; osteopathic physician, as defined in chapter 33 of this title; or naturopathic physician, as defined in chapter 81 of this title,~~ licensed practitioner shall not apply ionizing radiation to human beings without first having satisfied the ~~Board Director~~ of his or her competency to do so.

(b) The ~~Board Director~~ shall:

(1) consult with the appropriate licensing boards concerning suitable performance standards; and

(2) by rule, provide for periodic recertification of competency.

(c) A person subject to the provisions of this section shall be subject to the fees established under subdivisions 2814(4) and (5) of this chapter.

(d) This section does not apply to radiologists who are certified or eligible for certification by the American Board of Radiology, nuclear cardiologists who are certified or eligible for certification by the Certification Board of Nuclear Cardiology, or interventional cardiologists and electrophysiologists who are certified or eligible for certification by the American Board of Internal Medicine.

§ 2805. PENALTY AND ENFORCEMENT

A person found guilty of violating section 2802 or 2804 of this ~~title~~ chapter shall be subject to the penalties provided in 3 V.S.A. § 127(~~e~~).

Subchapter 2. ~~Board of Radiologic Technology Administration~~

§ 2811. BOARD REGULATION OF RADIOLOGIC TECHNOLOGY; DIRECTOR; ADVISOR APPOINTEES

(a)(1) ~~A board of radiologic technology is created, consisting of six members. The board shall be attached to the office of professional regulation. The Director shall administer the provisions of this chapter.~~

(2)(A) The Secretary of State shall appoint six persons of suitable

qualifications in accordance with this section to advise the Director in matters concerning radiologic technology, radiologic safety, and the optimal administration of this chapter.

(B) The Secretary shall appoint the advisors for five-year staggered terms. Four of the initial appointments shall be for four-, three-, two-, and one-year terms.

(3) The Director shall consult the appointed advisors prior to exercising interpretive discretion, adopting or amending rules, and determining any substantial regulatory question presented in the course of administering this chapter.

(b) ~~One member of the board~~ advisor shall be a member of the public who has no financial interest in radiologic technology other than as a consumer or possible consumer of its services. The public member shall have no financial interest personally or through a spouse.

(c) ~~One member of the board~~ advisor shall be a radiologist certified by the American Board of Radiology.

(d) ~~Three members of the board~~ advisors shall be licensed under this chapter, one representing each of the three following primary modalities: radiography; nuclear medicine technology; and radiation therapy.

(e) ~~One member of the board~~ advisor shall be a representative from the radiological health program of the Vermont ~~department of health~~ Department of Health.

(f) ~~Board members shall be appointed by the governor.~~ [Repealed.]

§ 2812. DIRECTOR; POWERS AND DUTIES

(a) The ~~Board~~ Director shall adopt rules necessary for the ~~performance effective administration of its duties~~ this chapter, including:

(1) a definition of the practice of radiologic technology, interpreting section 2801 of this ~~title~~ chapter;

(2) qualifications for obtaining licensure, interpreting sections 2821a and 2821b of this chapter;

(3) explanations of appeal and other significant rights given to applicants and the public;

(4) procedures for disciplinary and reinstatement cases;

(5) [Repealed.]

(6) procedures for mandatory reporting of unsafe radiologic conditions

or practices;

(7) procedures for continued competency evaluation;

(8) procedures for radiation safety;

(9) procedures for competency standards for license applications and renewals.

(b) The ~~Board~~ Director shall:

(1) [Repealed.]

(2) ~~use the administrative and legal services provided by the Office of Professional Regulation under 3 V.S.A. chapter 5; [Repealed.]~~

(3) investigate suspected unprofessional conduct;

(4) periodically determine whether a sufficient supply of good quality radiologic technology services is available in Vermont at a competitive and reasonable price and take suitable action, within the scope of its the Office's powers, to solve or bring public and professional attention to any problem that it finds in this area; and

(5) as a condition of renewal require that a licensee establish that he or she has completed a minimum of 24 hours of continuing education as approved by the Board, the specific requirements of which may be specified by rule.

(c) The ~~Board~~ Director may:

(1) Refer cases of apparent improper radiologic technology practice to any occupational board with authority over the person concerned.

(2) Investigate suspected cases of unauthorized practice of radiologic technology, and refer any such case to the Office's State prosecuting attorney, the Attorney General, or a State's Attorney for possible prosecution and injunctive relief.

* * *

(8)(A) Conduct a competency evaluation where radiographic services are performed by licensees and licensed practitioners required to demonstrate competency under section 2804 of this title chapter to ensure that optimum radiologic technology practices are used to minimize patient and occupational radiation dose. ~~The fee required under section 2814 of this title shall not be assessed more than once in any two-year period against any licensed practitioner evaluated under this subdivision.~~

(B) ~~The Director of the Office of Professional Regulation may~~

contract with the Department of Health or others to perform evaluations under this subsection subdivision (8).

§ 2813. ~~BOARD PROCEDURES~~

- ~~(a) Annually, the board shall meet to elect a chairperson and a secretary.~~
- ~~(b) Meetings may be called by the chairperson and shall be called upon the request of any other two members.~~
- ~~(c) Meetings shall be warned and conducted in accordance with 1 V.S.A. chapter 5.~~
- ~~(d) A majority of the members of the board shall be a quorum for transacting business.~~
- ~~(e) All action shall be taken upon a majority vote of the members present and voting, unless otherwise provided in 1 V.S.A. chapter 5.~~
- ~~(f) The provisions of the Vermont Administrative Procedure Act relating to contested cases shall apply to proceedings under this chapter.~~
- ~~(g) Fees for the service of process and attendance before the board shall be the same as the fees paid sheriffs and witnesses in superior court. [Repealed.]~~

* * *

Subchapter 3. Licensing

* * *

§ 2821a. LICENSE FOR PRIMARY MODALITIES; COMMON REQUIREMENTS

The ~~board~~ Director shall recognize and follow the ARRT and the NMTCB primary certification process. The ~~board~~ Director shall issue a license to practice in one of the following three primary modalities to any person who in addition to the other requirements of this section, has reached the age of majority and has completed preliminary education equivalent to at least four years of high school:

(1) Radiography. The ~~board~~ Director shall issue a radiography license to any person who, in addition to meeting the general requirements of this section:

* * *

(2) Nuclear medicine technology. The ~~board~~ Director shall issue a nuclear medicine technology license to any person who, in addition to meeting the general requirements of this section:

* * *

(3) Radiation therapy. The ~~board~~ Director shall issue a radiation therapy license to any person who, in addition to meeting the general requirements of this section:

* * *

§ 2821b. LICENSE FOR POSTPRIMARY MODALITIES

(a) The ~~Board recognizes and follows~~ Director shall recognize and follow the ARRT and NMTCB postprimary certification process ~~for~~ in the following postprimary practice categories: mammography, computed tomography (CT), cardiac-interventional radiography, vascular-interventional radiography, and positron emission tomography (PET).

* * *

§ 2822. PROCEDURE FOR DENIAL OF LICENSE

~~When the board intends to deny an application for license, it shall send the applicant written notice of its decision by certified mail. The notice shall include a statement of the reasons for the action. Within 30 days of the date that an applicant receives such notice, the applicant may file a petition with the board for review of its preliminary decision. At the hearing, the burden shall be on the applicant to show that a license should be issued. After the hearing, the board shall affirm or reverse its preliminary denial. [Repealed.]~~

§ 2823. RENEWAL AND PROCEDURE FOR NONRENEWAL

~~(a) Each radiographer, nuclear medicine technologist, and radiation therapist licensed to practice by the board shall apply biennially for the renewal of a license. One month prior to the renewal date, the office of professional regulation shall send to each of those licensees a license renewal application form and a notice of the date on which the existing license will expire. The licensee shall file the application for license renewal and pay a renewal fee. In order to be eligible for renewal, an applicant shall document completion of no fewer than 24 hours of board-approved continuing education. Required accumulation of continuing education hours shall begin on the first day of the first full biennial licensing period following initial licensure.~~

~~(b) A person who practices radiography, nuclear medicine technology, or radiation therapy and who fails to renew a license or registration or fails to pay the fees required by this chapter shall be an illegal practitioner and shall forfeit the right to practice until reinstated by the board.~~

~~(c) The board shall adopt rules setting forth qualifications for reinstating lapsed licenses. [Repealed.]~~

* * *

§ 2825a. LICENSURE BY ENDORSEMENT

The ~~board~~ Director may grant a license to an applicant who possesses a license in good standing in another state and possesses the applicable ARRT or NMTCB primary and postprimary certifications as set forth in sections 2821a and 2821b of this subchapter, respectively.

~~Subchapter 4. Discipline [Repealed.]~~

§ 2831. UNPROFESSIONAL CONDUCT

~~(a) Unprofessional conduct is the conduct prohibited by this section and by 3 V.S.A. § 129a, whether or not taken by a license holder.~~

~~(b) Conduct by a radiologic technologist which evidences moral unfitness to practice the profession constitutes unprofessional conduct. When that conduct is by an applicant or person who later becomes an applicant, it may constitute grounds for denial of a license.~~

~~(c) Unprofessional conduct includes the following actions by a licensee:~~

~~(1) practicing or offering to practice beyond the scope permitted by law;~~

~~(2) accepting and performing responsibilities which the licensee knows or has reason to know that he or she is not competent to perform;~~

~~(3) making any material misrepresentation in the practice of the profession, whether by commission or omission;~~

~~(4) agreeing with any other person or organization, or subscribing to any code of ethics or organizational bylaws, when the intent or primary effect of that agreement, code, or bylaw is to restrict or limit the flow of information concerning alleged or suspected unprofessional conduct to the board. [Repealed.]~~

§ 2832. DISCIPLINE OF LICENSEES

~~(a) The board shall accept oral and written complaints from any member of the public, any licensee, any state or federal agency, or the attorney general. The board may initiate disciplinary action in any complaint against a licensee and may act without having received a complaint.~~

~~(b) The burden of proof shall be on the state to show by a preponderance of the evidence that the licensee has engaged in unprofessional conduct.~~

~~(c) After hearing and upon a finding of unprofessional conduct, the board may:~~

~~(1) revoke a license;~~

~~(2) suspend a license; or~~

~~(3) issue a warning to a licensee.~~

~~(d) Before or after hearing, the board may approve a negotiated agreement between the parties when it is in the best interest of the public health, safety, or welfare to do so. Such an agreement may include, without limitation, any of the following conditions or restrictions which may be in addition to or in lieu of suspension:~~

~~(1) a requirement that a licensee submit to care or counseling;~~

~~(2) a restriction that a licensee practice only under supervision of a named person or a person with specified credentials;~~

~~(3) a requirement that a licensee participate in continuing education in order to overcome specified practical deficiencies;~~

~~(4) a requirement that the scope of practice permitted be restricted to a specified extent. Such an agreement may be modified by the parties after obtaining the approval of the board.~~

~~(e) An interested party may petition the board for modification of the terms of an order under this section.~~

~~(f) Where a license has been revoked, the board may reinstate the license on terms and conditions it deems proper. [Repealed.]~~

* * *

Sec. 19. TRANSITIONAL PROVISION; RADIOLOGIC TECHNOLOGY RULES

On the effective date of Sec. 18 of this act (amending 26 V.S.A. chapter 51 (radiology)), the rules of the Board of Radiologic Technology shall constitute the rules of the Director of the Office of Professional Regulation for the practice of radiologic technology.

* * * Alcohol and Drug Abuse Counselors * * *

Sec. 20. 26 V.S.A. § 3231 is amended to read:

§ 3231. DEFINITIONS

As used in this chapter:

* * *

(5) “Practice of alcohol and drug abuse counseling” means the application of methods, including psychotherapy, that assist an individual or group to develop an understanding of alcohol and drug abuse dependency

problems or process disorders, and to define goals and plan actions reflecting the individual's or group's interests, abilities, and needs as affected by alcohol and drug abuse dependency problems and comorbid conditions.

* * *

* * * Real Estate Appraisers * * *

Sec. 21. 26 V.S.A. chapter 69 is amended to read:

CHAPTER 69. REAL ESTATE APPRAISERS

Subchapter 1. General Provisions

§ 3311. DEFINITIONS

As used in this chapter:

* * *

(7) ~~“Board”~~ “Director” means the ~~Board of Real Estate Appraisers established under this chapter~~ Director of the Office of Professional Regulation.

(8)(A) “Disciplinary action” means any action ~~taken by the Board~~ any regulatory or certifying authority against a licensed real estate appraiser or applicant ~~premised on~~ upon a finding that the person has engaged in unprofessional conduct.

(B)(i) The term includes all sanctions of any kind, including obtaining injunctions, refusing to grant or renew a license, suspending, revoking, or restricting a license, and issuing warnings.

(ii) The term does not include monetary civil penalties imposed by a hearing officer in relation to an express finding under 3 V.S.A. § 129(a)(3) that the subject matter does not constitute unprofessional conduct.

(9) “Office” means the Office of Professional Regulation.

§ 3312. PROHIBITIONS; PENALTY; EXEMPTION

(a) Unless licensed in accordance with the provisions of this chapter, ~~no~~ a person ~~may~~ shall not:

(1) ~~Perform~~ perform an appraisal in a federally related transaction when a licensed or certified appraiser is required by the Act; or

(2) ~~Use~~ use in connection with his or her name any letters, words, or insignia indicating that he or she is a state State certified or licensed real estate appraiser.

(b) An individual who violates a provision of subsection (a) of this section

shall be subject to the penalties provided in 3 V.S.A. § 127(e).

(c) A registered appraisal management company shall not be required to be licensed in order to acquire and provide finished appraisals to third parties.

Subchapter 2. Administration

§ 3313. BOARD REGULATION OF REAL ESTATE APPRAISERS; DIRECTOR; ADVISOR APPOINTEES

(a)(1) A board of real estate appraisers is established. The board shall consist of six members appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004. The Director shall administer the provisions of this chapter.

(2)(A) The Secretary of State shall appoint six persons of suitable qualifications in accordance with this section to advise the Director in matters concerning real estate appraisal.

(B) The Secretary shall appoint the advisors for five-year staggered terms. Four of the initial appointments shall be for four-, three-, two-, and one-year terms.

(3) The Director shall consult the appointed advisors prior to exercising interpretive discretion, adopting or amending rules, and determining any substantial regulatory question presented in the course of administering this chapter.

(b) Three members advisors shall be real estate appraisers licensed under this chapter who have been actively engaged in the full-time practice of real estate appraising for five years preceding appointment and have been practicing in Vermont for the two-year period immediately preceding appointment.

(c) Two members advisors shall be public members who shall have no direct financial interest personally or through a spouse, parent, child, brother, or sister in real estate appraising.

(d) One member advisor shall be a public member actively engaged in the business of banking, including lending for the purpose of buying real property, or shall be a person who is a consumer of appraisal services in the regular course of his or her business.

§ 3314. BOARD DIRECTOR; POWERS AND DUTIES

(a) The Board Director shall administer the provisions of this chapter in a manner that conforms in all respects with the requirements of the Act.

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

- (1) Receive and review applications.
- (2) Collect the registry fee as required by the Act and transmit that fee to the ASC. The registry fee shall be in addition to State licensing and registration fees.
- (3) Annually publish a roster of all licensees and transmit the roster to the ASC as required by the Act.
- (4) Register appraisal management companies.
- (5) ~~The Board may make~~ Make inquiries ~~if he or she~~ deems necessary into the character, integrity, and reputation of the applicant.
- (6) Perform other functions and duties as may be necessary to carry out the provisions of this chapter and to comply with the requirements of the Act, including by adopting rules defining and regulating appraisal management companies in a manner consistent with the Act.

§ 3315. RULES

- (a) The ~~Board~~ Director may adopt rules necessary to implement the provisions of this chapter.
- (b) The ~~Board~~ Director shall adopt rules relating to procedures for processing applications, issuing licenses, registering trainees, inspecting records, and instituting and conducting disciplinary proceedings.

Subchapter 3. Licenses, Certifications, and Registrations

§ 3316. LICENSING AND REGISTRATION FEES

* * *

§ 3317. APPLICATION

An individual who desires to be licensed under this chapter shall ~~apply to submit an application as specified by the board in writing on a form furnished by the board. The application shall be~~ Director, accompanied by payment of the required fee.

§ 3318. EXAMINATION

The ~~Board~~ Director shall examine applicants ~~for~~ using an AQB-approved qualifying examination ~~for~~ applicable to the credential sought by the applicant.

§ 3319. TEMPORARY PRACTICE

The ~~board~~ Director shall issue a temporary license to an individual, after filing of an application and fee, who is a certified or licensed real estate appraiser in another jurisdiction if all of the following apply:

(1) ~~The~~ the property to be appraised is part of a federally related transaction for which a licensed or certified appraiser is required by the Act;

(2) ~~The~~ the applicant's business is of a temporary nature; and

(3) ~~The~~ the applicant registers with the ~~board~~ Office.

§ 3319a. APPRAISER TRAINEE REGISTRATION

(a)(1)(A) A person who has completed a course of instruction approved by the AQB may work as a certified residential or certified general appraiser trainee provided the person is registered with the ~~Board~~ Office.

(B) An appraiser trainee shall work under the direct supervision of an appraiser who holds either a certified residential or a certified general license in good standing and has held the certified residential or certified general license for at least the minimum number of years required by the AQB.

(2)(A) An appraiser trainee may perform activities within the scope of practice of the license sought, provided that the supervising appraiser reviews and signs all resulting appraisals.

(B) The supervising appraiser shall be professionally responsible for such activities performed by the trainee.

(3) As used in this ~~section~~ subsection, "good standing" means that the appraiser supervisor holds a current, unrestricted license.

(b) [Repealed.]

(c) ~~The Board Director may, in its discretion,~~ give credit for training hours, not exceeding 10 percent of the total hourly experience requirement, for hours worked or training given that does not include or is unrelated to a site inspection.

(d) Appraiser trainees registered with the Board as of July 1, 2013 and who continue on to satisfy the requirements specified by the AQB may become State licensed appraisers, notwithstanding the elimination of that license category.

§ 3320. LICENSURE BY RECIPROcity

The ~~Board Director~~ shall waive all licensing requirements for an appraiser applicant holding a valid certification from another state if:

(1) the appraiser licensing and certification program of the other state is in compliance with the provisions of the Act; and

(2) the appraiser applicant holds the valid certification from a state whose requirements for certification or licensing meet or exceed the licensure

standards established by this chapter.

* * *

§ 3321. RENEWALS

* * *

(c) The ~~Board~~ Director may reactivate the license of an individual whose license has lapsed for more than 30 days upon payment of the renewal fee, the reactivation fee, and the late renewal penalty, provided the individual has satisfied all requirements of AQB for reactivation.

(d) The ~~Board~~ Director may require, by rule, as a condition of reactivation, that an applicant undergo review of one or more aspects of the applicant's professional work in the practice of real estate appraising, provided that the manner and performance results of the review be specified by the ~~Board~~ Director. Such a review requirement shall:

* * *

§ 3322. USE OF LICENSE NUMBER; CONSUMER FEE DISCLOSURE

(a)(1) Each licensee or registrant shall be assigned a license or registration number ~~which~~ that shall be used in a report, a contract, engagement letter, or other instrument used by the licensee or registrant in connection with the licensee's or registrant's activities under this chapter. The license number shall be placed adjacent to or immediately below the title the licensee is entitled to use under this chapter.

(2) The Each licensed appraiser shall ensure that the registration number and the appraiser's fee for appraisal services shall appear adjacent to or immediately below the appraisal management company's registered name on documents supplied to clients or customers in this ~~state~~ State.

(b) The Each licensed appraiser shall include within the body of the appraisal report the amount of the appraiser's fee for appraisal services.

§ 3323. UNPROFESSIONAL CONDUCT

(a) The following conduct by a licensee and the conduct set forth in 3 V.S.A. § 129a constitute unprofessional conduct. When that conduct is by an applicant or a person who later becomes an applicant, it may constitute grounds for denial of a license:

* * *

(8) Violating any term or condition of a license restricted by the ~~board~~ Office.

(9) Failing to comply with practice standards adopted by the ~~board~~ Director.

* * *

~~(d) After hearing, and upon a finding of unprofessional conduct, the board may take disciplinary action against a licensee, applicant, or registrant. Without limitation, disciplinary action may include any of the following:~~

~~(1) suspending or conditioning a license or registration;~~

~~(2) requiring a licensee to submit to care or counseling;~~

~~(3) requiring that a licensee practice only under supervision of a named person or a person with specified credentials;~~

~~(4) requiring a licensee to participate in continuing education in order to overcome specified practical deficiencies;~~

~~(5) limiting the scope of the licensee's practice. [Repealed.]~~

(e) Appeals from ~~decisions of the board~~ disciplinary orders and final license denials shall be governed by the provisions of 3 V.S.A. § 130a.

§ 3324. RECORD RETENTION

(a) A licensee or registrant shall retain all records related to an appraisal, review, or consulting assignment for no ~~less~~ fewer than five years after preparation.

(b) A licensee or registrant shall retain records under this section that relate to a matter in litigation for two years after the litigation concludes or in conformance with the "Uniform Standards of Professional Appraisal Practice," as promulgated by the Appraisal Standards Board of the Appraisal Foundation, whichever period is longer.

(c) ~~With~~ Upon reasonable notice, a licensee or registrant shall ~~produce~~ provide to the Director for inspection and copying any records governed by this section ~~for inspection and copying by the board or its authorized agent.~~

§ 3325. REPORTING

An appraiser who reports to the ~~board~~ Director appraisal work ~~being performed which~~ that does not comply with the provisions of this chapter shall not be considered to have violated the ethics provision of the uniform standards of professional practice.

Sec. 22. TRANSITIONAL PROVISION; REAL ESTATE APPRAISER RULES

On the effective date of Sec. 21 of this act (amending 26 V.S.A. chapter 69

(real estate appraisers)), the rules of the Board of Real Estate Appraisers shall constitute the rules of the Director of the Office of Professional Regulation for the practice of real estate appraisal.

* * * Acupuncturists * * *

Sec. 23. 26 V.S.A. chapter 75 is amended to read:

CHAPTER 75. ACUPUNCTURISTS

Subchapter 1. General Provisions

§ 3401. DEFINITIONS

As used in this chapter:

(1) ~~“Acupuncture” or the “practice of acupuncture” means the insertion of fine needles through the skin at certain points on the body, with or without the application of electric current or the application of heat to the needles or skin, or both, for the purpose of promoting health and balance as defined by traditional and modern Oriental theories. Acupuncture involves the use of traditional and modern Oriental diagnostic techniques, acupuncture therapy, and adjunctive therapies, including but not limited to: nonprescription remedies, exercise, nutritional and herbal therapies, therapeutic massage, and lifestyle counselling well-being or to prevent or alleviate pain or unease.~~

* * *

~~(4) “Disciplinary action” includes any action taken by an administrative law officer appointed pursuant to 3 V.S.A. § 129(j) against a licensed acupuncturist or applicant premised on a finding of unprofessional conduct. Disciplinary action includes all appropriate remedies, including denial of or renewal of a license, suspension, revocation, limiting, or conditioning of the license, issuing reprimands or warnings, and adopting consent orders.~~

~~(5) “Secretary” means the secretary of state.~~

§ 3401a. SCOPE OF PRACTICE

(a) A licensed acupuncturist may, in addition to the practice of acupuncture employing fine needles, in a manner consistent with acupuncture theory, employ electrical, magnetic, thermal, and mechanical skin stimulation techniques; nonlaboratory diagnostic techniques; nutritional, herbal, and manual therapies; exercise and lifestyle counseling; acupressure; and massage.

(b) A licensed acupuncturist shall not offer diagnosis of any human pathology except for a functional diagnosis, based upon the physical complaint of a patient or acupuncture theory, for purposes of developing and managing a plan of acupuncture care, or as necessary to document to insurers and other

payers the reason a patient sought care.

§ 3402. PROHIBITIONS; OFFENSES; EXEMPTIONS; EVALUATING
NONACUPUNCTURISTS

(a) Except as provided in subsections (d) through (g) of this section 3412 of this title, a person shall not practice acupuncture unless he or she is licensed in accordance with the provisions of this chapter.

* * *

(d) Nothing in subsection (a) of this section shall prevent a student from performing acupuncture under the supervision of a competent licensed acupuncturist instructor:

(1) within a school or a college or an acupuncture department of a college or university that is licensed by the Vermont Agency of Education or certified by the Accreditation Commission for Acupuncture and Oriental Medicine;

(2) as a student in a Director-approved apprenticeship; or

(3) as an intern in any hospital.

(e) Nothing in subsection (a) of this section shall prevent a person who is licensed or certified as an acupuncturist in another state or Canadian province from practicing acupuncture for no more than five days in a calendar year as part of a health care professional educational seminar or program in Vermont, if the educational seminar or program is directly supervised by a Vermont-licensed health care professional whose scope of practice includes acupuncture.

(f) This chapter shall not be construed to limit or restrict in any way the right of a licensed practitioner of a health care profession regulated under this title from performing services within the scope of his or her professional practice.

(g) Nothing in subsection (a) of this section shall prevent an unlicensed person from engaging in auriculotherapy, an unregulated practice wherein needles are inserted into the external human ear, provided such person:

(1) has appropriate training in clean needle technique;

(2) employs sterile, single-use needles, without reuse;

(3) does not purport to treat any disease, disorder, infirmity, or affliction;

(4) does not use any letters, words, or insignia indicating or implying

that the person is an acupuncturist; and

(5) makes no statement implying that his or her practice of auriculotherapy is licensed, certified, or otherwise overseen by the State.

(h) The Director, with cooperation of the relevant professional regulatory boards, shall monitor and evaluate whether nonacupuncturists employing acupuncture as a therapeutic modality are doing so safely, within their scopes of practice, and in a manner consistent with the public health, safety, and welfare.

* * *

Subchapter 2. Administration

§ 3403. DIRECTOR; FUNCTIONS

* * *

§ 3404. ADVISOR APPOINTEES

(a)(1) ~~The secretary of state~~ Secretary of State shall appoint two licensed acupuncturists to serve as advisors in matters relating to acupuncture as set forth in 3 V.S.A. § 129b.

(2) Appointees shall have at least three years' experience as an acupuncturist immediately preceding appointment and shall be actively engaged in the practice of acupuncture in Vermont during incumbency.

(b) ~~The director~~ Director shall seek the advice of the acupuncturist advisors in carrying out the provisions of this chapter. ~~They shall be entitled to compensation and necessary expenses in the amount provided in 32 V.S.A. § 1010 for attendance at any meeting called by the director for that purpose.~~

Subchapter 3. Licenses

§ 3405. ELIGIBILITY FOR LICENSURE

To be eligible for licensure as an acupuncturist, an applicant shall be at least 18 years of age and shall furnish satisfactory proof that he or she ~~has:~~

(1)(A) ~~completed a program in acupuncture and Oriental medicine and has received~~ holds a degree or diploma from an educational institution ~~in candidacy or accredited by the Accreditation Commission for Acupuncture and Oriental Medicine or an~~ a substantially equivalent or successor accrediting organization approved by the U.S. Department of Education and the Director. ~~The training received in the program shall be for a period of not less than three academic years, and, which shall include at least two academic years and a minimum of 800~~ 400 hours of supervised clinical practice; ~~or~~

~~(B) completed a training program no later than December 31, 2010 with a preceptor approved by the Director where the training program is approved by the Director and begun prior to December 31, 2007 and which shall include earning a minimum of 40 points earned in any one of the following categories or combination of categories:~~

~~(i) self-directed study-10 points for study equivalent to one year of full-time academic work in acupuncture and Oriental medicine, for a maximum of two years or 20 points;~~

~~(ii) apprenticeship-10 points for each 1,000 documented contact hours, up to a maximum of 13.5 points per year;~~

~~(iii) completed academic work in an accredited acupuncture program as described in subdivision (1) of this section-five points for each six-month period of completed academic study in the field of acupuncture and Oriental medicine, up to a maximum of four periods or 20 points;~~

~~(iv) preceptors shall be licensed and in good standing and meet the standards of the National Certification Commission for Acupuncture and Oriental Medicine in order to be approved, with no preceptor having more than two apprentices at any one time; and~~

~~(2) passed the examination described in section 3406 of this title chapter.~~

§ 3406. EXAMINATION

~~(a) The director~~ Director shall examine applicants for licensure and may use a standardized national examination. The examination shall include the following subjects:

~~(1) Anatomy and physiology.~~

~~(2) Traditional Oriental Acupuncture pathology.~~

~~(3) Traditional Oriental Acupuncture diagnosis.~~

~~(4) Hygiene, sanitation, and sterilization techniques.~~

~~(5) The principles, practices, and techniques of acupuncture and Oriental medicine.~~

~~(6) Clean needle techniques.~~

~~(7) Chinese herbology for those licensed after January 1, 2007 who intend to employ nonprescription remedies and herbal therapies.~~

~~(b) The director~~ Director may adopt rules necessary to perform his or her duties under this section.

§ 3407. LICENSURE WITHOUT EXAMINATION

(a) The ~~director~~ Director may waive the examination requirement under subdivision ~~3405(3)~~ 3405(2) of this title ~~chapter~~ if the applicant is an acupuncturist regulated under the laws of another state who is in good standing to practice acupuncture in that state and, in the opinion of the ~~director~~ Director, the standards and qualifications required for regulation of acupuncturists in that state are substantially equivalent to those required by this chapter.

(b) The ~~director~~ Director may waive the examination requirement under subdivision ~~3405(3)~~ 3405(2) of this title ~~chapter~~ for an applicant who has furnished evidence of having passed the examination administered by the National Certification Commission for the Certification of for Acupuncturists Acupuncture and Oriental Medicine.

* * *

§ 3408. RENEWALS

(a) Licenses shall be renewed every two years upon payment of the required fee and furnishing satisfactory evidence of having completed 30 hours of continuing education credit during the preceding two years. The ~~director~~ Director may adopt rules for the approval of continuing education programs and the awarding of credit.

~~(b) Biennially, the director shall forward a renewal form to each licensed acupuncturist. Upon receipt of the completed form and the renewal fee, the director shall issue a new license.~~

~~(c) A license that has expired for three years or less shall be renewed upon meeting the renewal requirements and paying a late renewal penalty. A license that has expired for more than three years shall not be renewed; the applicant shall be required to apply for reinstatement. The director may adopt rules relating to reinstatement to assure that the applicant is professionally qualified.~~

* * *

§ 3410. UNPROFESSIONAL CONDUCT

~~(a) A licensed acupuncturist or applicant shall not engage in unprofessional conduct.~~

~~(b) Unprofessional conduct means any of the conduct listed in this section and 3 V.S.A. § 129a, whether committed by a licensed acupuncturist or an applicant:~~

~~(1) Using dishonest or misleading advertising.~~

~~(2) — Addiction to narcotics, habitual drunkenness, or rendering professional services to a patient if the acupuncturist is intoxicated or under the influence of drugs.~~

~~(3) — Sexual harassment of a patient.~~

~~(4) — Engaging in sexual intercourse or other sexual conduct with a patient with whom the licensed acupuncturist has had a professional relationship within the previous two years.~~

~~(e) — After hearing and upon a finding of unprofessional conduct, an administrative law officer appointed under 3 V.S.A. § 129(j) may take disciplinary action against a licensed acupuncturist or applicant. [Repealed.]~~

~~* * *~~

~~§ 3412. ACUPUNCTURE DETOXIFICATION; SPECIALIZED CERTIFICATION~~

~~(a) — A person not licensed under this chapter may obtain a specialized certification as an acupuncture detoxification technician to practice auricular acupuncture according to the National Acupuncture Detoxification Association protocol from the board for the purpose of the treatment of alcoholism, substance abuse, or chemical dependency if he or she provides documentation of successful completion of a board-approved training program in acupuncture for the treatment of alcoholism, substance abuse, or chemical dependency which meets or exceeds standards of training established by the National Acupuncture Detoxification Association.~~

~~(b) — Treatment permitted under this section may only take place in a state, federal, or board-approved site under the supervision of an individual licensed under this chapter and certified by the National Acupuncture Detoxification Association.~~

~~(c) — A person practicing under this section shall be subject to the requirements of section 3410 of this title.~~

~~(d) — Nothing in this section shall be construed to modify any of the requirements for licensure of acupuncturists contained in this chapter, nor shall it grant any rights to practice acupuncture which exceed the scope of this section.~~

~~(e) — The fee for obtaining a specialized certification or renewal of a specialized certification under this section shall be that established in 3 V.S.A. § 125(b).~~

~~(f) — Anyone certified under this section, while practicing the National Acupuncture Detoxification Association protocol, shall be referred to as an~~

acupuncture detoxification technician. [Repealed.]

* * * Athletic Trainers * * *

Sec. 24. 26 V.S.A. chapter 83 is amended to read:

CHAPTER 83. ATHLETIC TRAINERS

§ 4151. DEFINITIONS

As used in this chapter:

* * *

(3) “Athletic training” means the application of principles and methods of conditioning, the prevention, immediate care, recognition, evaluation, assessment, and treatment of athletic and orthopedic injuries within the scope of education and training, the organization and administration of an athletic training program, and the education and counseling of athletes, coaches, family members, medical personnel, and communities, and groups in the area of care and prevention of athletic and orthopedic injuries. ~~Athletic training may only be applied in the “traditional setting” and the “clinical setting”:~~

~~(A) Without further referral, to athletes participating in organized sports or athletic teams at an interscholastic, intramural, instructional, intercollegiate, amateur, or professional level.~~

~~(B) With a referral from a physician, osteopathic physician, advanced practice registered nurse, physician assistant, dentist, or chiropractor, to athletes or the physically active who have an athletic or orthopedic injury and have been determined, by a physician’s examination, to be free of an underlying pathology that would affect treatment.~~

* * *

(10) “Referral” means sending a patient for treatment determination, recorded in writing, by an allopathic or osteopathic physician, podiatrist, advanced practice registered nurse, physician assistant, physical therapist, naturopath, dentist, or chiropractor, that an athlete or physically active individual should be treated by an athletic trainer, and that such person is free of an underlying pathology that would affect treatment.

(11) “Settings” means ~~any areas in which an athletic trainer may practice athletic training. These areas include:~~

~~(A) “Traditional setting” means working with any organized sports or athletic teams at an interscholastic, intramural, instructional, intercollegiate, amateur, or professional level.~~

~~(B) “Clinical setting” means an outpatient orthopaedic or sports medicine clinic that employs one of the following: physician, osteopathic physician, chiropractor, or physical therapist. [Repealed.]~~

(12) “Underlying pathology” means any disease process, including neuromuscular disease, diabetes, spinal cord injuries, and systemic diseases.

§ 4151a. PRACTICE CONTEXTS; REFERRAL REQUIRED FOR CLINICAL CARE

(a) A person licensed under this chapter may provide athletic training:

(1) by formal engagement with a team, school, college, university, league, or other sporting organization, to affiliated athletes participating in organized sports or athletic teams at an interscholastic, intramural, instructional, intercollegiate, amateur, or professional level;

(2) upon referral of an athlete or physically active individual to an athletic training clinic;

(3) by engagement with an employer or organization for the purpose of educating groups on the care and prevention of athletic and orthopedic injuries or conditioning appropriate to physical demands upon employees or members; or

(4) in a bona fide emergency necessitating response care of an injured athlete.

(b) Practice outside the settings set forth in subsection (a) of this section, including clinical practice without referral, exceeds an athletic trainer’s scope of practice. Such practice is not entitled to the protections of § 4160 of this chapter and may be sanctioned as unprofessional conduct.

§ 4152. PROHIBITION; OFFENSES

~~(a) No~~ A person may shall not use in connection with the person’s name any letters, words, or insignia indicating or implying that the person is a licensed athletic trainer unless the person is licensed in accordance with this chapter.

(b) A person who violates any of the provisions of subsection (a) of this section shall be subject to the penalties provided in 3 V.S.A. § 127(e).

§ 4153. EXEMPTIONS

The provisions of this chapter shall not apply to:

* * *

~~(2) a person who assists or provides response care to an injured athlete~~

~~and who does not attempt to assess the injury, provide follow-up treatment, or otherwise practice athletic training as defined in this chapter; [Repealed.]~~

(3) a person duly licensed under the laws of this state State who is practicing within the scope of the profession for which the person is licensed; or

(4) the practice of athletic training ~~which~~ that is incidental to a program of study by a person enrolled in an athletic training education program approved by the ~~director~~ Director, or graduates of an approved athletic training education program ~~pending the results of the first licensing examination scheduled by the director following graduation. Graduates shall practice under the supervision of a licensed athletic trainer and shall have an application for licensure by examination on file working under the direct supervision of a person licensed under this chapter within 90 days following graduation from that program.~~

* * *

§ 4157a. TEMPORARY LICENSURE

~~An applicant who is currently certified by and in good standing with the National Athletic Trainers Association Board of Certification, or who is currently licensed or certified and in good standing in another state, shall be eligible for a 60-day temporary license. Applicants under this section shall meet the requirements of section 4158 of this title. Temporary practice shall not exceed 60 days in any calendar year. [Repealed.]~~

§ 4158. APPLICATION

~~A person who desires to be licensed as an athletic trainer shall apply to the director in writing, on a form furnished by the director, accompanied by payment of a fee required pursuant to 3 V.S.A. § 125 and evidence that the applicant meets the requirements set forth in section 4156 or 4157 of this title. [Repealed.]~~

§ 4158a. RENEWALS

~~(a) Licenses shall be renewed every two years upon payment of the required fee.~~

~~(b) Biennially, the director shall forward a renewal form to each license holder. Upon receipt of the completed form and the renewal fee, the director shall issue a new license.~~

~~(c) Any application for renewal of a license which has expired shall be accompanied by the renewal fee and late fee. A person shall not be required to pay renewal fees for years during which the license was lapsed.~~

~~(d) The director may, after notice and opportunity for a hearing, revoke a person's right to renew licensure if the license has lapsed for five or more years. [Repealed.]~~

§ 4159. UNPROFESSIONAL CONDUCT

~~(a) A licensed athletic trainer shall not engage in unprofessional conduct. When such conduct is committed by an applicant, it shall be grounds for denial of the application or other disciplinary action.~~

~~(b) Unprofessional conduct means the following conduct and conduct set forth in 3 V.S.A. § 129a:~~

~~(1) Failing to make available to a person using athletic training services, upon that person's request, copies of documents in the possession or under the control of the practitioner, when those documents have been prepared for the user of services.~~

~~(2) Conduct which evidences unfitness to practice athletic training.~~

~~(3) Sexual harassment of a person using athletic training services.~~

~~(4) Engaging in a sexual act as defined in 13 V.S.A. § 3251 with a person using athletic training services.~~

~~(5) Any of the following except when reasonably undertaken in an emergency in order to protect life, health, or property:~~

~~(A) Practicing or offering to practice beyond the scope permitted by law.~~

~~(B) Performing athletic training services which have not been authorized by the consumer or his or her legal representative.~~

~~(6) Conduct prohibited under any other laws relating to athletic training.~~

~~(c) After notice and an opportunity for hearing, and upon a finding of unprofessional conduct, an administrative law officer may take disciplinary action against a licensed athletic trainer or applicant. [Repealed.]~~

* * *

* * * Applied Behavior Analysts * * *

Sec. 25. 26 V.S.A. chapter 95 is amended to read:

CHAPTER 95. APPLIED BEHAVIOR ANALYSTS

* * *

Subchapter 3. Licenses

* * *

§ 4925. RENEWALS

* * *

(b) Biennially, the Director shall provide notice to each licensee of license expiration and renewal requirements. Upon receipt of ~~the completed form and the a complete and satisfactory renewal application and~~ fee, the Director shall issue a new license.

* * *

~~(d)(1) The Director may reinstate the license of an individual whose license has expired upon payment of the required fee and reinstatement penalty, provided the individual has satisfied all the requirements for renewal, including continuing education.~~

~~(2) The Director may adopt rules necessary for the protection of the public to assure the Director that an applicant whose license has expired or who has not worked for more than three years as an applied behavior analyst or an assistant behavior analyst is professionally qualified for license renewal. Conditions imposed under this subsection shall be in addition to the other requirements of this section. [Repealed.]~~

* * *

§ 4927. APPLICATIONS

~~Applications for licensure and license renewal shall be on forms provided by the~~ The Director shall promulgate applications for licensure and license renewal. Each application shall contain a statement under oath showing the applicant's education, experience, and other pertinent information and shall be accompanied by the required fee.

* * *

* * * Notaries Public * * *

Sec. 26. 24 V.S.A. § 1160 is amended to read:

§ 1160. ACKNOWLEDGEMENTS; OATH

(a) A town clerk, commissioned as a notary public pursuant to 26 V.S.A. chapter 103, may take acknowledgements of deeds and other instruments throughout his or her county.

(b) In his or her county, he or she may administer oaths in all cases where an oath is required, without being commissioned as a notary public pursuant to 26 V.S.A. chapter 103.

(c)(1) Each town clerk may designate from among the members of his or her staff at least one notary public to be available to perform notarial acts for the public in the town clerk's office during normal business hours free of charge.

(2) Each individual designated by the town clerk under this subsection shall be commissioned as a notary public pursuant to 26 V.S.A. chapter 103 and shall be exempt from the notary public application fee under that chapter.

Sec. 27. 26 V.S.A. § 5304 is amended to read:

§ 5304. DEFINITIONS

As used in this chapter:

* * *

(8) "Notarial officer" means ~~a notary public or other~~ an individual authorized to perform a notarial act under authority and within the jurisdiction of another state, under authority and within the jurisdiction of a federally recognized Indian tribe, under authority of federal law, under authority and within the jurisdiction of a foreign state or constituent unit of the foreign state, or under authority of a multinational or international governmental organization.

* * *

Sec. 28. 26 V.S.A. § 5305 is amended to read:

§ 5305. EXEMPTIONS

(a) Generally Judiciary- and law enforcement-related employees.

(1) Employee exemptions.

(A) Judiciary-related.

(i) The persons set forth in subdivision (2)(A) of this subsection, when acting within the scope of their official duties, are exempt from all of the requirements of this chapter, including the requirement to pay the fee set forth in section 5324 of this chapter, except for the requirements:

~~(A) requirement 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.~~

(ii) A commission issued to a person under this subdivision (A) shall not be considered a license.

(B) Law enforcement-related.

(i) The persons set forth in subdivision (2)(B) of this subsection, when acting within the scope of their official duties, shall be commissioned as notaries public authorized to perform a notarial act as a matter of law and are exempt from all of the requirements of this chapter, including the requirement to pay the fee set forth in section 5324 of this chapter.

(ii) A notarial act that identifies the notary public as a person who is exempt under this subdivision (B) shall establish as a matter of law that the person is commissioned as a notary public for the purpose of acting within the scope of official duties under this subsection.

(2) Employees, defined.

(A) Judiciary-related. 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) Law enforcement-related. 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) Official duties, defined. 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 Town clerks, assistants, and justices of the peace. The following persons are exempt from the fee set forth in section 5324 of this chapter:~~

~~(1)(A) a judge, clerk, or other court staff, as designated by the Court Administrator; A town clerk and his or her assistants may perform notarial acts as notaries public throughout the town clerk's county, provided that they shall comply with all of the requirements of this chapter, except as provided in subdivision (2) of this subsection.~~

~~(B) Subject to the provisions of subdivision (A) of this subdivision (1), performing notarial acts as a notary public shall be considered within the scope of the official duties of a town clerk and his or her assistants.~~

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

~~(3) justices 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 are exempt from the fee set forth in section 5324 of this chapter.~~

(d) Unauthorized practice. Nothing in this section is intended to prohibit prosecution of a person under 3 V.S.A. § 127 (unauthorized practice).

Sec. 29. 26 V.S.A. § 5361 is amended to read:

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

(a) A notarial act, as defined in subdivision 5304(7)(A) of this chapter, 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.

* * * Massage Services * * *

Sec. 30. OFFICE OF PROFESSIONAL REGULATION; ADDENDUM TO PRELIMINARY SUNRISE ASSESSMENT ON MASSAGE THERAPY

(a) On or before January 15, 2020, the Office of Professional Regulation shall prepare and submit to the Senate and House Committees on Government Operations an Addendum to its 2015-2016 Preliminary Sunrise Assessment on Massage Therapy, dated January 5, 2016. The Addendum shall apply the criteria set forth in 26 V.S.A. chapter 57 (review of regulatory laws) to assess whether new regulation of businesses or individuals offering massage services will serve the interests of public safety pertaining to sexual misconduct and human trafficking. Development of the Addendum shall not require the Office to repeat its 2010 and 2016 analyses of proposals by applicants for sunrise review.

(b) In preparing the Addendum, the Office shall consult with the Vermont Center for Crime Victim Services, the Vermont Network Against Domestic and Sexual Violence, the Vermont Department of Public Safety, the Vermont Police Association, the Vermont Association of Chiefs of Police, the Vermont Human Trafficking Task Force, representatives of massage therapists, and such other advocacy organizations, researchers, State and federal agencies, and law enforcement authorities as the Office may deem appropriate.

* * * Effective Date * * *

Sec. 31. EFFECTIVE DATE

This act shall take effect on July, 1, 2019.

(For text see House Journal March 19, 2019)

H. 275

An act relating to the Farm-to-Plate Investment Program

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

First: In Sec. 1, 10 V.S.A. § 330, in subdivision (c)(1), by striking out the words “~~agricultural economic~~” and inserting in lieu thereof: agricultural economic and

Second: By striking out Sec. 2 (repeal; Farm-to-Plate Investment Program) in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. FARM-TO-PLATE INVESTMENT PROGRAM; REPORT

On or before January 1, 2031, the Sustainable Jobs Fund shall report to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry a recommendation of whether the Farm-to-Plate Investment Program should continue to operate as authorized under 10 V.S.A. § 330 or whether the Program should be repealed. The Sustainable Jobs Fund shall provide a rationale for its recommendation and any proposed legislative action to implement the recommendation.

(For text see House Journal March 1, 2019)

H. 511

An act relating to criminal statutes of limitations

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

Sec. 1. 13 V.S.A. § 44501 is amended to read:

§ 4501. LIMITATION OF PROSECUTIONS FOR CERTAIN CRIMES

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

(b) Prosecutions for ~~manslaughter~~, lewd and lascivious conduct, sexual abuse of a vulnerable adult under subsection 1379(a) of this title, maiming, grand larceny, robbery, burglary, embezzlement, forgery, bribery offenses, false claims, fraud under 33 V.S.A. § 141(d), and felony tax offenses shall be commenced within six years after the commission of the offense, and not after.

(c) Prosecutions for any of the following offenses shall be commenced within 40 years after the commission of the offense, and not after:

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

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

(3) lewd or lascivious conduct with a child;

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

(5) ~~manslaughter alleged to have been committed against a child under 18 years of age~~ sexual abuse of a vulnerable adult under subsection 1379(b) of this title.

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

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

Sec. 2 EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 12, 2019)

H. 521

An act relating to amending the special education laws

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

* * * Act 173 amendments * * *

Sec. 1. PURPOSE

(a) 2018 Acts and Resolves No. 173 made substantial changes to the funding of special education services and directed the Agency of Education to assist supervisory unions in adopting best practices for the delivery of special education services. This act makes certain minor amendments to the special education laws that are proposed by the Agency of Education to clarify some of the changes made in Act 173.

(b) This act also amends certain dates in Act 173 to provide an additional year to prepare for the changes in the funding and delivery of special education services required by Act 173.

Sec. 2. 2018 Acts and Resolves No. 173, Sec. 2 is amended to read:

Sec. 2. GOALS

* * *

(b)(1) To support the enhanced delivery of these services, the State funding model for special education shall change for all supervisory unions in fiscal year ~~2021~~ 2022, for school year ~~2020-2021~~ 2021-2022, from a reimbursement model to a census-based model, which will provide more flexibility in how the funding can be used, is aligned with the State's policy priorities of serving students who require additional support across the general and special education service-delivery systems, and will simplify administration.

* * *

Sec. 3. 16 V.S.A. § 2961 is amended to read:

§ 2961. CENSUS GRANT

(a) As used in this section:

* * *

(3) "Long-term membership" of a supervisory union in any school year means the average of the supervisory union's average daily membership over the most recent three school years for which data are available.

(4) "Uniform base amount" means an amount determined by:

(A) dividing an amount:

(i) equal to the average State appropriation for fiscal years ~~2018, 2019, and 2020~~ 2019, 2020, and 2021 for special education under sections 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; and

(ii) increased by the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis; by

(B) ~~the statewide average daily membership for prekindergarten through grade 12 for the 2019-2020 school year~~ long-term membership.

* * *

(d)(1)(A) For fiscal year ~~2021~~ 2022, the amount of the census grant for a supervisory union shall be:

(i) the average amount it received for fiscal years ~~2017, 2018, and 2019~~ 2018, 2019, and 2020 from the State for special education under sections 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; increased by

(ii) the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

(B) The amount determined under subdivision (A) of this subdivision (1) shall be divided by the supervisory union's long-term membership, to determine the base amount of the census grant, which is the amount of the census grant calculated on a per student basis.

(2) For fiscal year ~~2025~~ 2026 and subsequent fiscal years, the amount of the census grant for a supervisory union shall be the uniform base amount multiplied by the supervisory union's long-term membership.

(3) For fiscal years ~~2022, 2023, and 2024~~ 2023, 2024, and 2025, the amount of the census grant for a supervisory union shall be determined by multiplying the supervisory union's long-term membership by a base amount established under this subdivision. The base amounts for each supervisory union for fiscal years ~~2022, 2023, 2024~~ 2023, 2024, and 2025 shall move gradually the supervisory union's fiscal year ~~2021~~ 2022 base amount to the fiscal year ~~2025~~ 2026 uniform base amount by prorating the change between the supervisory union's fiscal year ~~2021~~ 2022 base amount and the fiscal year ~~2025~~ 2026 uniform base amount over this three-fiscal-year period.

Sec. 4. 16 V.S.A. § 2967 is amended to read:

§ 2967. AID PROJECTION

(a) On or before December 15, the Secretary shall publish an estimate, by each supervisory union, of its anticipated State special education expenditures funding under this chapter for the ensuing school year.

(b) As used in this section, State special education expenditures funding shall include:

(1) ~~costs~~ funds eligible for grants and reimbursements under sections 2961 and 2962 of this title;

(2) ~~costs~~ funds for services for persons who are visually impaired;

- (3) ~~costs funds~~ for persons who are deaf or hard of hearing;
- (4) ~~costs funds~~ for the interdisciplinary team program;
- (5) funds expended for training and programs to meet the needs of students with emotional or behavioral challenges under subsection 2969(c) of this title; and
- (6) funds expended for training under subsection 2969(d) of this title.

Sec. 5. 16 V.S.A. § 2975 is amended to read:

§ 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL ASSISTANCE

~~The Secretary may use up to two percent of the funds appropriated for allowable special education expenditures, as that term is defined in State Board of Education rules, to directly assist supervisory unions with special education expenditures of an unusual or unexpected nature~~ funds for allowable special education expenditures, as defined in State Board of Education rules, to directly assist supervisory unions with special education expenditures of an unusual or unexpected nature. These funds shall be appropriated in the amount of two percent times the Census Grant as defined in section 2961 of this title. The Secretary's decision regarding a supervisory union's eligibility for and amount of assistance shall be final.

Sec. 6. 2018 Acts and Resolves No. 173, Sec. 12 is amended to read:

Sec. 12. TRAINING AND TECHNICAL ASSISTANCE ON THE DELIVERY OF SPECIAL EDUCATION SERVICES

(a) The Agency of Education shall, for the 2018–2019, 2019–2020, ~~and 2020–2021,~~ and 2021–2022 school years, assist supervisory unions to expand and improve their delivery of services to students who require additional supports in accordance with the report entitled “Expanding and Strengthening Best-Practice Supports for Students who Struggle” delivered to the Agency of Education in November 2017 from the District Management Group. This assistance shall include the training of teachers and staff and technical assistance with the goal of embedding the following best practices for the delivery of special education services:

- (1) ensuring core instruction meets most needs of most students;
- (2) providing additional instructional time outside core subjects to students who require additional support, rather than providing interventions instead of core instruction;

(3) ensuring students who require additional support receive all instruction from highly skilled teachers;

(4) creating or strengthening a systems-wide approach to supporting positive student behaviors based on expert support; and

(5) providing specialized instruction from skilled and trained experts to students with more intensive needs.

(b) The sum of \$200,000.00 is appropriated from federal funds that are available under the Individuals with Disabilities Education Act for fiscal year 2019 to the Agency of Education, which the Agency shall administer in accordance with this section. The Agency shall include in its budget request to the General Assembly for each of fiscal years 2020 and 2021, and 2022 the amount of \$200,000.00 from federal funds that are available under the Individuals with Disabilities Education Act for administration in accordance with this section.

(c) The Agency of Education shall present to the General Assembly on or before December 15 in 2019, 2020, and 2021, and 2022 a report describing what changes supervisory unions have made to expand and improve their delivery of services to students who require additional supports and describing the associated delivery challenges. The Agency shall share each report with all supervisory unions.

Sec. 7. 2018 Acts and Resolves No. 173, Sec. 16 is amended to read:

Sec. 16. RULEMAKING

The Agency of Education shall recommend to the State Board proposed rules that are necessary to implement this act and, on or before November 1, 2019 2020, the State Board of Education shall adopt rules that are necessary to implement this act. The State Board and the Agency of Education shall consult with the Census-based Funding Advisory Group established under Sec. 9 of this act in developing the State Board rules. The State Board rules shall include rules that establish processes for reporting, monitoring, and evaluation designed to ensure:

(1) the achievement of the goal under this act of enhancing the effectiveness, availability, and equity of services provided to all students who require additional support in Vermont's school districts; and

(2) that supervisory unions are complying with the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33.

Sec. 8. 2018 Acts and Resolves No. 173, Sec. 17 is amended to read:

Sec. 17. TRANSITION

(a) Notwithstanding the requirement under 16 V.S.A. § 2964 for a supervisory union to submit a service plan to the Secretary of Education, a supervisory union shall not be required to submit a service plan for fiscal year ~~2021~~ 2022.

(b) On or before November 1, ~~2019~~ 2020, a supervisory union shall submit to the Secretary such information as required:

(1) by the Secretary to estimate the supervisory union's projected fiscal year ~~2021~~ 2022 extraordinary special education reimbursement under Sec. 5 of this act; and

(2) for IDEA reporting in a format specified by the Secretary.

(c) The Agency of Education shall assist supervisory unions as they transition to the census-based funding model in satisfying their maintenance of effort requirements under federal law.

Sec. 9. 2018 Acts and Resolves No. 173, Sec. 18 is amended to read:

Sec. 18. TRANSITION FOR ALLOWABLE SPECIAL EDUCATION COSTS

* * *

(b) This section is repealed on July 1, ~~2020~~ 2021.

Sec. 10. 2018 Acts and Resolves No. 173, Sec. 23 is amended to read:

Sec. 23. EFFECTIVE DATES

* * *

(b) Sec. 5 (16 V.S.A. chapter 101) shall take effect on July 1, ~~2020~~ 2021.

* * *

* * * State Advisory Panel on Special Education * * *

Sec. 11. 16 V.S.A. § 2945 is amended to read:

§ 2945. STATE ADVISORY COUNCIL PANEL ON SPECIAL EDUCATION

~~(a) There is created the Advisory Council on Special Education that shall consist of 19 members. All members of the Council shall serve for a term of three years or until their successors are appointed. Terms shall begin on April 1 of the year of appointment. A majority of the members shall be either individuals with disabilities or parents of children with disabilities.~~

~~(1) Seventeen of the members shall be appointed by the Governor with the advice of the Secretary. Among the gubernatorial appointees shall be:~~

~~(A) teachers;~~

~~(B) representatives of State agencies involved in the financing or delivery of related services to children with disabilities;~~

~~(C) a representative of independent schools;~~

~~(D) at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities;~~

~~(E) a representative from the State juvenile and adult corrections agency;~~

~~(F) individuals with disabilities;~~

~~(G) parents of children with disabilities, provided the child shall be younger than 26 years old at the time his or her parent is appointed to the Council;~~

~~(H) State and local education officials, including officials who carry out activities under the McKinney-Vento Homeless Assistance Act;~~

~~(I) a representative of higher education who prepares special education and related services personnel;~~

~~(J) a representative from the State child welfare department responsible for foster care;~~

~~(K) special education administrators; and~~

~~(L) two at-large members.~~

~~(2) In addition, two members of the General Assembly shall be appointed, one from the House of Representatives and one from the Senate. The Speaker shall appoint the House member and the Committee on Committees shall appoint the Senate member.~~

~~(b) The Council shall elect its own chair from among its membership. The Council shall meet annually at the call of the Chair, and other meetings may be called by the Chair at such times and places as he or she may determine to be necessary.~~

~~(c) The members of the Council who are employees of the State shall receive no additional compensation for their services, but actual and necessary expenses shall be allowed State employees, and shall be charged to their departments or institutions. The members of the Council who are not~~

~~employees of the State shall receive a per diem compensation as provided under 32 V.S.A. § 1010 for each day of official business and reimbursement for actual and necessary expenses at the rate allowed State employees.~~

~~(d) The Council shall:~~

~~(1) assume all responsibilities required of the State advisory panel by federal law;~~

~~(2) review periodically the rules, regulations, standards, and guidelines pertaining to special education and recommend to the State Board any changes it finds necessary;~~

~~(3) comment on any new or revised rules, regulations, standards, and guidelines proposed for issuance; and~~

~~(4) advise the State Board in the development of any State plan for provision of special education.~~

(a) The State Advisory Panel on Special Education (Panel) is created to provide guidance with respect to special education and related services for children with disabilities in the State. Members of the Panel shall be appointed by the Governor, with the advice of the Secretary of Education. The Panel shall perform the duties, and members of the Panel shall be appointed, in accordance with federal law. In addition to members appointed to the Panel to satisfy the requirements under federal law, the members of the Panel shall include a representative of each body designated by the State under federal law as the Parent Training and Information Center and the Protection and Advocacy System. The total number of members on the Panel shall not exceed 37 members.

(b) The Panel shall elect an executive committee from among its members. The executive committee shall be composed of seven members of the Panel, one of whom shall be the chair of the Panel. A majority of the members of the executive committee shall be individuals with disabilities or parents of children with disabilities (ages birth through 26 years of age). The executive committee shall call meetings of the Panel and shall direct the work of the Panel.

(c) The Panel shall advise both the Agency of Education and the State Board of Education on those matters upon which the Panel is required, under federal law, to advise the State Education Agency.

(d) Members of the Panel shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010.

Sec. 12. TRANSITION

(a) On or before August 1, 2019, members shall be appointed to the State Advisory Panel on Special Education under 16 V.S.A. § 2945 to ensure that the membership of the Panel complies with federal law, including the appointment of members who fulfill the requirement that a majority of the members be individuals with disabilities or parents of children with disabilities.

(b) On or before December 1, 2019, the Panel shall, in consultation with the Agency of Education, review and update its bylaws, and shall include in its bylaws term limits for all or certain of its members, as the Panel deems appropriate.

* * * Act 46 * * *

Sec. 13. SCHOOL DISTRICT MERGERS; STATE BOARD OF
EDUCATION ORDER

(a) Statement of intent.

(1) 2017 Acts and Resolves No. 49 made “useful changes to the merger time lines” contained in 2015 Acts and Resolves No. 46 “without weakening or eliminating the Act’s fundamental phased merger and incentive structures and requirements.” Act 49 reemphasized this point by noting that “[n]othing in this act should be interpreted to suggest that it is acceptable for a school district to fail to take reasonable and robust action to seek to meet the goals of Act 46.”

(2) Similarly, nothing in this act, which permits a final extension of the deadline for mergers required by the State Board of Education, should be interpreted to weaken or undermine in any way the State Board’s final merger order of November 28, 2018 or to encourage delay for school districts that want to merge on July 1, 2019. Except as modified by this act, school districts remain under all obligations under Acts 46 and 49, whether or not they choose to delay the operational date of their merger.

(b) Definitions. As used in this section:

(1) “Default Articles” means the Default Articles of Agreement issued with the State Board Report.

(2) “Existing district” means a union school district created by vote of the electorate on or after July 1, 2014 into which a merging district is ordered by the State Board Order to merge.

(3) “Forming district” means a school district that is ordered by the State Board Order to merge with other forming districts to create a newly formed district.

(4) “Initial members” mean the initial members of the board of a newly formed district elected under Article 10 of the default articles.

(5) “Merging district” means a school district that is ordered by the State Board Order to merge into an existing district.

(6) “Newly formed district” means a union school district that is formed by the State Board Order by merging forming districts.

(7) “State Board Order” means the section of the State Board Report entitled “State Board of Education’s ‘order merging and realigning districts and supervisory unions where necessary pursuant to Act 46, Sec. 10(b).’”

(8) “State Board Report” means the “Final Report of the Decisions and Order on Statewide School District Merger Decisions Pursuant to Act 46, Sections 8(b) and 10” issued by the State Board of Education dated November 28, 2018.

(c) Notwithstanding any provision of law to the contrary:

(1) Merger deadline extension.

(A) Except as provided in subdivisions (1)(B) and (C) of this subsection, the operational deadline for school district mergers under the State Board Order shall be on July 1, 2019 or July 1, 2020.

(i) For the mergers of forming districts into a newly formed district, the school board of the newly formed district, operating in accordance with the default articles, shall, on or before June 30, 2019, determine, by majority vote of the initial members representing a quorum, the operational date of merger.

(ii) For the merger of a merging district into an existing district, the school board of the existing district shall, on or before June 30, 2019, determine, by majority vote of members representing a quorum, the operational date of merger.

(B) The operational deadline for school district mergers under the State Board Order shall be on July 1, 2019 if the relevant board does not, on or before June 30, 2019, determine the operational date of the merger under subdivision (1)(A) of this subsection.

(C) The deadline for mergers that, in the State Board Order, are conditioned upon approval of voters of the existing district shall be as specified in the State Board Order.

(2) Default Articles. The Default Articles for each newly formed district that has an operational deadline of July 1, 2020 are amended as follows:

(A) by striking out the date “June 30, 2019” wherever it appears and inserting in lieu thereof the date “June 30, 2020”;

(B) by striking out the date “July 1, 2019” wherever it appears and inserting in lieu thereof the date “July 1, 2020”; provided, however, the date “July 1, 2019” shall not be changed in Article 9;

(C) by striking out the date “December 31, 2019” wherever it appears and inserting in lieu thereof the date “December 31, 2020”;

(D) by striking out the date “July 1, 2020” wherever it appears and inserting in lieu thereof the date “July 1, 2021”;

(E) by striking out the academic year “2019–2020” wherever it appears and inserting in lieu thereof the academic year “2020–2021”;

(F) by striking out the academic year “2020–2021” wherever it appears and inserting in lieu thereof the academic year “2021–2022”;

(G) by striking out the academic year “2021–2022” wherever it appears and inserting in lieu thereof the academic year “2022–2023”; and

(H) by striking out the fiscal year “2020” wherever it appears and inserting in lieu thereof the fiscal year “2021”.

(3) Small schools grant.

(A) If a forming district or merging district that merges under the State Board Order has an operational merger date of July 1, 2019, and that district was an “eligible school district” as defined in 16 V.S.A. § 4015, as in effect on June 30, 2019, that received a small schools support grant under that section in the fiscal year two years prior to the first fiscal year of merger, then the newly formed district or existing district, as applicable, shall receive an annual small schools support grant in an amount equal to the small schools support grant received by the forming district or merging district, as applicable, in the fiscal year two years prior to the first fiscal year of merger. If more than one forming district or merging district was an eligible school district and merged into the same newly formed district or existing district, as applicable, then the small schools support grant for the newly formed district or existing district, as applicable, shall be in an amount equal to the total combined small schools support grants the forming districts or the merging districts, as applicable, received in the fiscal year two years prior to the first fiscal year of merger.

(B) Payment of the grant under subdivision (3)(A) of this subsection shall continue annually unless explicitly repealed by the General Assembly; provided, however, that the Secretary shall discontinue payment of the grant in the fiscal year following closure by the school district of a school that qualified the district for the grant; and further provided that if a school building that housed a school that qualified the district for the grant is closed in order to consolidate with another school into a renovated or new school building, then the Secretary shall continue to pay the grant during the repayment term of any bonded indebtedness incurred in connection with the consolidation-related renovation or construction.

(4) Union school district budget.

(A) If the first budget of a newly formed district has not been approved by voters on or before June 30 for the 2020 or 2021 fiscal year, the Agency of Education shall authorize an amount of education spending for that newly formed district equal to:

(i) the cumulative education spending amount authorized by the most recently voter approved school budgets of the forming districts; multiplied by

(ii) the percentage that represents the average statewide increase from the prior fiscal year to the current fiscal year in school district education spending authorized by voter approved school district budgets, based on data received by the Agency of Education on or before June 14 of the prior fiscal year. As used in this subdivision (ii), for mergers under the State Board Order that are operational on July 1, 2019, the prior fiscal year shall be fiscal year 2019 and the current fiscal year shall be fiscal year 2020, and for mergers under the State Board Order that are operational on July 1, 2020, the prior fiscal year shall be fiscal year 2020 and the current fiscal year shall be fiscal year 2021.

(B) The amount authorized by the Agency of Education under subdivision (4)(A) of this subsection shall be the “education spending” of the newly formed district for the relevant fiscal year under 16 V.S.A. chapter 133.

(C) The school board of the newly formed district, operating in accordance with the default articles, shall determine how funds shall be expended in the relevant fiscal year under this subdivision (4). In addition, the school board of the newly formed district shall have the authority to expend any other funds received from other sources in the relevant fiscal year under this subdivision (4), including endowments, parental fundraising, federal funds, nongovernmental grants, or other State funds such as special education funds paid under 16 V.S.A. chapter 101.

Sec. 14. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

* * *

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

* * *

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

Secs. 1, 2, 6–13 and this section shall take effect on passage. Secs. 3–5 shall take effect on July 1, 2021. Sec. 14 (small school support) shall take effect on July 1, 2019.

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

An act relating to amending special education laws and Act 46.

(For text see House Journal March 19, 2019)

NOTICE CALENDAR

Favorable with Amendment

S. 31

An act relating to informed health care financial decision making

Rep. Smith of Derby, for the Committee on Health Care, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 42 is amended to read:

CHAPTER 42. BILL OF RIGHTS FOR HOSPITAL PATIENTS AND
PATIENT ACCESS TO INFORMATION

Subchapter 1. Bill of Rights for Hospital Patients

§ 1851. DEFINITIONS

As used in this ~~chapter~~ subchapter:

(1) “Hospital” means a ~~general~~ hospital required to be licensed under ~~18 V.S.A. chapter 43~~ of this title.

(2) "Patient" means a person admitted to a hospital on an inpatient basis.

§ 1852. PATIENTS' BILL OF RIGHTS; ADOPTION

* * *

(12) The patient has the right to receive an itemized, detailed, and understandable explanation of charges regardless of the source of payment and to be provided with information about financial assistance and billing and collections practices.

* * *

Subchapter 2. Access to Information

§ 1854. PUBLIC ACCESS TO INFORMATION

* * *

§ 1855. AMBULATORY SURGICAL PATIENTS; EXPLANATION OF CHARGES

(a) As used in this section:

(1) "Ambulatory surgical center" has the same meaning as in section 9432 of this title.

(2) "Hospital" means a hospital required to be licensed under chapter 43 of this title.

(b) A patient receiving outpatient surgical services or an outpatient procedure at an ambulatory surgical center or hospital shall receive an itemized, detailed, and understandable explanation of charges regardless of the source of payment and shall be provided with information about the ambulatory surgical center's or hospital's financial assistance and billing and collections practices.

Sec. 2. 18 V.S.A. § 9375(b) is amended to read:

(b) The Board shall have the following duties:

* * *

(14) Collect and review data from each psychiatric hospital licensed pursuant to chapter 43 of this title, which may include data regarding a psychiatric hospital's scope of services, volume, utilization, discharges, payer mix, quality, coordination with other aspects of the health care system, and financial condition. The Board's processes shall be appropriate to psychiatric hospitals' scale and their role in Vermont's health care system, and the Board

shall consider ways in which psychiatric hospitals can be integrated into systemwide payment and delivery system reform.

Sec. 3. 18 V.S.A. § 9351 is amended to read:

§ 9351. HEALTH INFORMATION TECHNOLOGY PLAN

(a)(1) The Department of Vermont Health Access, in consultation with the Department's Health Information Exchange Steering Committee, shall be responsible for the overall coordination of Vermont's statewide Health Information Technology Plan. The Plan shall be revised annually and updated comprehensively every five years to provide a strategic vision for clinical health information technology.

(2) The Department shall submit the proposed Plan to the Green Mountain Care Board annually on or before November 1. The Green Mountain Care Board shall approve, reject, or request modifications to the Plan within 45 days following its submission; if the Board has taken no action after 45 days, the Plan shall be deemed to have been approved.

(3)(A) The Department, in consultation with the Steering Committee, shall administer the Plan, ~~which shall~~.

(B) The Plan shall include the implementation of an integrated electronic health information infrastructure for the sharing of electronic health information among health care facilities, health care professionals, public and private payers, and patients. The Plan shall provide for each patient's electronic health information to be accessible to health care facilities, health care professionals, and public and private payers to the extent permitted under federal law unless the patient has affirmatively elected not to have the patient's electronic health information shared in that manner.

(C) The Plan shall include standards and protocols designed to promote patient education, patient privacy, physician best practices, electronic connectivity to health care data, access to advance care planning documents, and, overall, a more efficient and less costly means of delivering quality health care in Vermont.

* * *

Sec. 4. VERMONT HEALTH INFORMATION EXCHANGE; OPT-OUT CONSENT POLICY; IMPLEMENTATION

(a) The Department of Vermont Health Access, in consultation with its Health Information Exchange Steering Committee, shall administer a robust stakeholder process to develop an implementation strategy for the consent policy for the sharing of patient health information through the Vermont

Health Information Exchange (VHIE), as revised pursuant to Sec. 3 of this act. The implementation strategy shall:

(1) include substantial opportunities for public input;

(2) focus on the creation of patient education mechanisms and processes that:

(A) combine new information on the consent policy with existing patient education obligations, such as disclosure requirements under the Health Insurance Portability and Accountability Act of 1996 (HIPAA);

(B) aim to address diverse needs, abilities, and learning styles with respect to information delivery;

(C) clearly explain:

(i) the purpose of the VHIE;

(ii) the way in which health information is currently collected;

(iii) how and with whom health information may be shared using the VHIE;

(iv) the purposes for which health information may be shared using the VHIE;

(v) how to opt out of having health information shared using the VHIE; and

(vi) how patients can change their participation status in the future; and

(D) enable patients to fully understand their rights regarding the sharing of their health information and provide them with ways to find answers to associated questions, including providing contact information for the Office of the Health Care Advocate;

(3) identify the mechanisms by which Vermonters will be able to easily opt out of having their health information shared through the VHIE and a timeline identifying when each mechanism will be available, which shall begin in advance of the July 1, 2020 change to the consent policy;

(4) include plans for developing or supplementing consent management processes at the VHIE to reflect the needs of patients and providers;

(5) include multisector communication strategies to inform each Vermonter about the VHIE, the consent policy, and their ability to opt out of having their health information shared through the VHIE; and

(6) identify a methodology for evaluating the extent to which the public outreach regarding the VHIE, consent policy, and opt-out processes has been successful.

(b)(1) The Department of Vermont Health Access shall provide updates on the stakeholder engagement process and the consent policy implementation strategy to the House Committee on Health Care, the Senate Committee on Health and Welfare, the Health Reform Oversight Committee, and the Green Mountain Care Board on or before August 1 and November 1, 2019.

(2) The Department of Vermont Health Access shall provide a final report on the outcomes of the stakeholder engagement process and the consent policy implementation strategy to the House Committee on Health Care, the Senate Committee on Health and Welfare, and the Green Mountain Care Board on or before January 15, 2020.

Sec. 5. EFFECTIVE DATES

(a) Secs. 1 (18 V.S.A. chapter 42) and 2 (18 V.S.A. § 9375(b) shall take effect on July 1, 2019.

(b) Sec. 3 (18 V.S.A. § 9351) shall take effect on July 1, 2020.

(c) Sec. 4 (Vermont Health Information Exchange; opt-out consent policy; implementation) and this section shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to informed health care financial decision making and the consent policy for the Vermont Health Information Exchange”

(Committee vote: 11-0-0)

(For text see Senate Journal March 20, 21, 2019)

S. 96

An act relating to the provision of water quality services

Rep. Sheldon of Middlebury, for the Committee on Natural Resources; Fish; and Wildlife, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 10 V.S.A. chapter 37, subchapter 5 is amended to read:

Subchapter 5. ~~Aquatic Nuisance Control~~ Water Quality Restoration and Improvement

§ 921. DEFINITIONS

As used in this subchapter:

(1) “Administrative cost” means program and project costs incurred by a clean water service provider or a grantee, including costs to conduct procurement, contract preparation, and monitoring, reporting, and invoicing.

(2) “Basin” means a watershed basin designated by the Secretary for use as a planning unit under subsection 1253(d) of this title.

(3) “Best management practice” or “BMP” means a schedule of activities, prohibitions, practices, maintenance procedures, green infrastructure, or other management practices to prevent or reduce water pollution.

(4) “Clean water project” means a best management practice or other program designed to improve water quality to achieve a target established under section 922 of this title that:

(A) is not subject to a permit under chapter 47 of this title, is not subject to the requirements of 6 V.S.A. chapter 215, exceeds the requirements of a permit issued under chapter 47 of this title, or exceeds the requirements of 6 V.S.A chapter 215; and

(B) is within the following activities:

(i) developed lands, sub-jurisdictional practices related to developed lands including municipal separate storm sewers, operational stormwater discharges, municipal roads, and other developed lands discharges;

(ii) natural resource protection and restoration, including river corridor and floodplain restoration and protection, wetland protection and restoration, riparian and lakeshore corridor protection and restoration, and natural woody buffers associated with riparian, lakeshore, and wetland protection and restoration;

(iii) forestry; or

(iv) agriculture.

(5) “Co-benefit” means the additional benefit to local governments and the public provided by or associated with a clean water project, including flood resilience, ecosystem improvement, and local pollution prevention.

(6) “Design life” means the period of time that a clean water project is designed to operate according to its intended purpose.

(7) “Maintenance” means ensuring that a clean water project continues to achieve its designed pollution reduction value for its design life.

(8) “Standard cost” means the projected cost of achieving a pollutant load reduction per unit or per best management practice in a basin.

§ 922. WATER QUALITY IMPLEMENTATION PLANNING AND TARGETS

(a) After listing a water as impaired on the list of waters required by 33 U.S.C. § 1313(d), the Secretary shall include in the implementation plan for the water a strategy for returning the water to compliance with the Vermont Water Quality Standards. With respect to a water that is impaired due to sources outside the State or if there is insufficient data or no data available to quantify reductions required by this subchapter, the Secretary shall not be required to implement the requirements of this subchapter; however, the Secretary shall provide an alternate strategy for attaining water quality standards in the implementation plan for the water. For waters determined to be subject to this subchapter, the Secretary shall include the following in an implementation plan:

(1) An evaluation of whether implementation of existing regulatory programs will achieve water quality standards in the impaired water. If the Secretary determines that existing regulatory programs will not achieve water quality standards, the Secretary shall determine the amount of additional pollutant reduction necessary to achieve water quality standards in that water. When making this determination, the Secretary may express the pollutant reduction in a numeric reduction or through defining a clean water project that must be implemented to achieve water quality standards.

(2) An allocation of the pollutant reduction identified under subdivision (a)(1) of this section to each basin and the clean water service provider assigned to that basin pursuant to subsection 924(a) of this title. When making this allocation, the Secretary shall consider the sectors contributing to the water quality impairment in the impaired water's boundaries and the contribution of the pollutant from regulated and nonregulated sources within the basin. Those allocations shall be expressed in annual pollution reduction goals and five-year pollution reduction targets as checkpoints to gauge progress and adapt or modify as necessary.

(3) A determination of the standard cost per unit of pollutant reduction. The Secretary shall publish a methodology for determining standard cost pollutant reductions. The standard cost shall include the costs of project identification, project design, and project construction.

(b)(1) The Secretary shall conduct the analysis required by subsection (a) of this section for previously listed waters as follows:

(A) For phosphorous in the Lake Champlain watershed, not later than November 1, 2021.

(B) For phosphorous in the Lake Memphremagog watershed, not later than November 1, 2022.

(2) By not later than November 1, 2023, the Secretary shall adopt a schedule for implementing the requirements of this subchapter in all other previously listed impaired waters, including Lake Carmi, not set forth in subdivision (1) of this subsection.

(c) When implementing the requirements of this section, the Secretary shall follow the type 3 notice process established in section 7714 of this title.

§ 923. QUANTIFICATION OF POLLUTION REDUCTION; CLEAN WATER PROJECTS

(a) After listing a water as impaired on the list of waters required by 33 U.S.C. § 1313(d), the Secretary shall publish a methodology for calculating pollution reduction values associated with a clean water project in that water. When establishing a pollutant reduction value, the Secretary shall consider pollution reduction values established in the TMDL; pollution reduction values established by other jurisdictions; pollution reduction values recommended by organizations that develop pollutant reduction values for a clean water project; applicable monitored data with respect to a clean water project, if available; modeled data, if available; or a comparison to other similar projects or programs if no other data on a pollution reduction value or design life exists. Pollution reduction values established by the Secretary shall be the exclusive method for determining the pollutant reduction value of a clean water project.

(b) After listing a water as impaired on the list of waters required by 33 U.S.C. § 1313(d), the Secretary shall publish a methodology for establishing a design life associated with a clean water project. The design life of a clean water project shall be determined based on a review of values established in other jurisdictions, values recommended by organizations that regularly estimate the design life of clean water projects, actual data documenting the design life of a practice, or a comparison to other similar practices if no other data exists. A design life adopted by the Secretary shall be the exclusive method for determining the design life of a best management practice or other control.

(c)(1) If a person is proposing a clean water project for which no pollution reduction value or design life exists for a listed water, the Secretary shall establish a pollution reduction value or design life for that clean water project within 60 days following a request from the person proposing the clean water project. A pollution reduction value or design life established under this subdivision shall be based on a review of pollution reduction values

established in the TMDL; pollution reduction values or design lives established by other jurisdictions; pollution reduction values or design lives recommended by organizations that develop pollutant reduction values or design lives for a clean water project; applicable monitored data with respect to a clean water project, if available; modeled data, if available; actual data documenting the design life of a clean water project; or a comparison to other similar projects or programs if no other data on a pollution reduction value or design life exists. Any estimate developed under this subsection by the Secretary shall be posted on the Agency of Natural Resources' website.

(2) Upon the request of a clean water service provider, the Secretary shall evaluate a proposed clean water project and issue a determination as to whether the proposed clean water project is eligible to receive funding as a part of a Water Quality Restoration Formula Grant awarded by the State pursuant to section 925 of this title.

(d)(1) The Secretary shall conduct the analysis required by subsections (a) and (b) of this section for clean water projects and design lives related to phosphorous not later than November 1, 2021.

(2) By not later than November 1, 2023, the Secretary shall adopt a schedule for implementing the requirements of subsections (a) and (b) of this section for clean water projects and design lives related to all other impairments not listed under subdivision (1) of this subsection.

(e) The Secretary shall periodically review pollution reduction values and design lives established under this section at least every five years to determine the adequacy or accuracy of a pollution reduction value or design life.

(f)(1) When implementing the requirements of subsections (a) and (b) of this section, the Secretary shall follow the type 3 notice process established in section 7714 of this title.

(2) When implementing the requirements of subsection (c) of this section, the Secretary shall follow the type 4 notice process in section 7715 of this title.

§ 924. CLEAN WATER SERVICE PROVIDER; RESPONSIBILITY FOR
CLEAN WATER PROJECTS

(a) Clean water service providers; establishment.

(1) On or before November 1, 2020, the Secretary shall adopt rules that assign a clean water service provider to each basin in the Lake Champlain and Lake Memphremagog watersheds for the purposes of achieving pollutant reduction values established by the Secretary for the basin and for

identification, design, construction, operation, and maintenance of clean water projects within the basin. For all other impaired waters, the Secretary shall assign clean water service provider no later than six months prior to the implementation of the requirements of this subchapter scheduled by the Secretary under subdivision 922(b)(2) of this title. The rulemaking shall be done in consultation with regional planning commissions, natural resource conservation districts, watershed organizations, and municipalities located within each basin.

(2) An entity designated as a clean water service provider shall be required to identify, prioritize, develop, construct, verify, inspect, operate, and maintain clean water projects in accordance with the requirements of this subchapter.

(3) The Secretary shall adopt guidance on a clean water service provider's obligation with respect to implementation of this chapter. The Secretary shall provide notice to the public of the proposed guidance and a comment period of not less than 30 days. At a minimum, the guidance shall address the following:

(A) how the clean water service provider integrates prioritizes and selects projects consistent with the applicable basin plan, including how to account for the co-benefits provided by a project;

(B) minimum requirements with respect to selection and agreements with subgrantees;

(C) requirements associated with the distribution of administrative costs to the clean water service provider and subgrantees;

(D) Secretary's assistance to clean water service providers with respect to their maintenance obligations pursuant to subsection (c) of this section; and

(E) the Secretary's strategy with respect to accountability pursuant to subsection (f) of this section.

(4) In carrying out its duties, a clean water service provider shall adopt guidance for subgrants consistent with the guidance from the Secretary developed pursuant to subdivision (a)(3) of this section that establishes a policy for how the clean water service provider will issue subgrants to other organizations in the basin, giving due consideration to the expertise of those organizations and other requirements for the administration of the grant program. The subgrant guidance shall include how the clean water service provider will allocate administrative costs to subgrantees for project implementation and for the administrative costs of the basin water quality

council. The subgrant guidance shall be subject to the approval of the Secretary and basin water quality council.

(5) When selecting clean water projects for implementation or funding, a clean water service provider shall prioritize projects identified in the basin plan for the area where the project is located and shall consider the pollutant targets provided by the Secretary and the recommendations of the basin water quality council.

(b) Project identification, prioritization, selection. When identifying, prioritizing, and selecting a clean water project to meet a pollutant reduction value, the clean water service provider shall consider the pollution reduction value associated with the clean water project, the co-benefits provided by the project, operation, and maintenance of the project, conformance with the tactical basin plan, and other water quality benefits beyond pollution reduction associated with that clean water project. All selected projects shall be entered into the watershed projects database.

(c) Maintenance responsibility. A clean water service provider shall be responsible for maintaining a clean water project or ensuring the maintenance for at least the design life of that clean water project. The Secretary shall provide funding for maintenance consistent with subdivision 1389(e)(1)(A) of this title.

(d) Water quality improvement work. If a clean water service provider achieves a greater level of pollutant reduction than a pollutant reduction goal or five-year target established by the Secretary, the clean water service provider may carry those reductions forward into a future year. If a clean water service provider achieves its pollutant reduction goal or five-year target and has excess grant funding available, a clean water service provider may:

(1) carry those funds forward into the next program year;

(2) use those funds for other eligible project;

(3) use those funds for operation and maintenance responsibilities for existing constructed projects;

(4) use those funds for projects within the basin that are required by federal or State law; or

(5) use those funds for other work that improves water quality within the geographic area of the basin, including protecting river corridors, aquatic species passage, and other similar projects.

(e) Reporting. A clean water service provider shall report annually to the Secretary. The report from clean water service providers shall be integrated

into the annual clean water investment report, including outcomes from the work performed by clean water service providers. The report shall contain the following:

(1) a summary of all clean water projects completed that year in the basin;

(2) a summary of any inspections of previously implemented clean water projects and whether those clean water projects continue to operate in accordance with their design;

(3) all administrative costs incurred by the clean water service provider;

(4) a list of all of the subgrants awarded by the clean water service provider in the basin; and

(5) all data necessary for the Secretary to determine the pollutant reduction achieved by the clean water service provider during the prior year.

(f) Accountability for pollution reduction goals. If a clean water service provider fails to meet its allocated pollution reduction goals or its five-year target or fails to maintain previously implemented clean water projects the Secretary shall take appropriate steps to hold the clean water service provider accountable for the failure to meet pollution reduction goals or its five-year target. The Secretary may take the following steps:

(1) enter a plan to ensure that the clean water service provider meets current and future year pollution reduction goals and five-year targets; or

(2) initiate rulemaking to designate an alternate clean water service provider as accountable for the basin.

(g) Basin water quality council.

(1) A clean water service provider designated under this section shall establish a basin water quality council for each assigned basin. The purpose of a basin water quality council is to establish policy and make decisions for the clean water service provider regarding the most significant water quality impairments that exist in the basin and prioritizing the projects that will address those impairments based on the basin plan. A basin water quality council shall also participate in the basin planning process.

(2) A basin water quality council shall include, at a minimum, the following:

(A) two persons representing natural resource conservation districts in that basin, selected by the applicable natural resource conservation districts;

(B) two persons representing regional planning commissions in that basin, selected by the applicable regional planning commission;

(C) two persons representing local watershed protection organizations operating in that basin, selected by the applicable watershed protection organizations;

(D) one representative from an applicable local or statewide land conservation organization selected by the conservation organization in consultation with the clean water service provider; and

(E) two persons representing from each municipality within the basin, selected by the clean water service provider in consultation with municipalities in the basin.

(3) The designated clean water service provider and the Agency of Natural Resources shall provide technical staff support to the basin water quality council. The clean water service provider may invite support from persons with specialized expertise to address matters before a basin water quality council, including support from the University of Vermont Extension, staff of the Agency of Natural Resources, staff of the Agency of Agriculture, Food and Markets, staff of the Agency of Transportation, staff from the Agency of Commerce and Community Development, the Natural Resource Conservation Service, U.S. Department of Fish and Wildlife, and U.S. Forest Service.

§ 925. CLEAN WATER SERVICE PROVIDER; WATER QUALITY

RESTORATION FORMULA GRANT PROGRAM

The Secretary shall administer a Water Quality Restoration Formula Grant Program to award grants to clean water service providers to meet the pollutant reduction requirements under this subchapter. The grant amount shall be based on the annual pollutant reduction goal established for the clean water service provider multiplied by the standard cost for pollutant reduction including the costs of administration and reporting. Not more than 15 percent of the total grant amount awarded to a clean water service provider shall be used for administrative costs.

§ 926. WATER QUALITY ENHANCEMENT GRANT PROGRAM

The Secretary shall administer a Water Quality Enhancement Grant Program. This program shall be a competitive grant program to fund projects that protect high quality waters, maintain or improve water quality in all waters, restore degraded or stressed waters, create resilient watersheds and communities, and support the public's use and enjoyment of the State's waters. When making awards under this program, the Secretary shall consider the

geographic distribution of these funds. Not more than 15 percent of the total grant amount awarded shall be used for administrative costs.

§ 927. DEVELOPED LANDS IMPLEMENTATION GRANT PROGRAM

The Secretary shall administer a Developed Lands Implementation Grant Program to provide grants or financing to persons who are required to obtain a permit to implement regulatory requirements that are necessary to achieve water quality standards. The grant or financing program shall only be available in basins where a clean water service provider has met its annual goals or is making sufficient progress, as determined by the Secretary, towards those goals. This grant program shall fund or provide financing for projects related to the permitting of impervious surface of three acres or more under subdivision 1264(g)(3) of this title. Not more than 15 percent of the total grant amount awarded shall be used for administrative costs.

§ 928. MUNICIPAL STORMWATER IMPLEMENTATION GRANT PROGRAM

The Secretary shall administer a Municipal Stormwater Implementation Grant Program to provide grants to any municipality required under section 1264 of this title to obtain or seek coverage under the municipal roads general permit, the municipal separate storm sewer systems permit, a permit for impervious surface of three acres or more, or a permit required by the Secretary to reduce the adverse impacts to water quality of a discharge or stormwater runoff. The grant program shall only be available in basins where a clean water service provider has met its annual goals or is making sufficient progress, as determined by the Secretary, towards those goals. Not more than 15 percent of the total grant amount awarded shall be used for administrative costs.

§ 929. CLEAN WATER PROJECT TECHNICAL ASSISTANCE

The Secretary shall provide technical assistance upon the request of any person who, under this chapter, receives a grant or is a subgrantee of funds to implement a clean water project.

§ 930. RULEMAKING

The Secretary may adopt rules to implement the requirements of this subchapter.

Sec. 2. 10 V.S.A. § 1253(d)(2) and (3) are amended to read:

(2) In developing a basin plan under this subsection, the Secretary shall:

(A) identify waters that should be reclassified outstanding resource waters or that should have one or more uses reclassified under section 1252 of this title;

(B) identify wetlands that should be reclassified as Class I wetlands;

(C) identify projects or activities within a basin that will result in the protection and enhancement of water quality;

(D) review the evaluations performed by the Secretary under subdivisions 922(a)(1) and (2) of this title and update those findings based on any new data collected as part of a basin plan;

(E) for projects in the basin that will result in enhancement of resources, including those that protect high quality waters of significant natural resources, the Secretary shall identify the funding needs beyond those currently funded by the Clean Water Fund;

(F) ensure that municipal officials, citizens, natural resources conservation districts, regional planning commissions, watershed groups, and other interested groups and individuals are involved in the basin planning process;

~~(E)~~(G) ensure regional and local input in State water quality policy development and planning processes;

~~(F)~~(H) provide education to municipal officials and citizens regarding the basin planning process;

~~(G)~~(I) develop, in consultation with the regional planning commission, an analysis and formal recommendation on conformance with the goals and objectives of applicable regional plans;

~~(H)~~(J) provide for public notice of a draft basin plan; and

~~(I)~~(K) provide for the opportunity of public comment on a draft basin plan.

(3) The Secretary shall, contingent upon the availability of funding, negotiate and issue performance grants to the Vermont Association of Planning and Development Agencies or its designee, ~~and~~ the Natural Resources Conservation Council or its designee, and to Watersheds United Vermont or its designee to assist in or to produce a basin plan under the schedule set forth in subdivision (1) of this subsection in a manner consistent with the authority of regional planning commissions under 24 V.S.A. chapter 117 and the authority of the natural resources conservation districts under chapter 31 of this title. When negotiating a scope of work with the Vermont Association of Planning and Development Agencies or its designee, ~~and~~ the Natural Resources

Conservation Council or its designee, and Watersheds United Vermont or its designee to assist in or produce a basin plan, the Secretary may require the Vermont Association of Planning and Development Agencies, ~~or~~ the Natural Resources Conservation Council, or Watersheds United Vermont to:

(A) conduct any of the activities required under subdivision (2) of this subsection (d);

(B) provide technical assistance and data collection activities to inform municipal officials and the State in making water quality investment decisions;

(C) coordinate municipal planning and adoption or implementation of municipal development regulations better to meet State water quality policies and investment priorities; or

(D) assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to ensure cost-effective use of State and federal funds.

Sec. 3. 10 V.S.A. § 1387 is amended to read:

§ 1387. FINDINGS; PURPOSE; CLEAN WATER INITIATIVE

(a)(1) The State has committed to implementing a long-term Clean Water Initiative to provide mechanisms, staffing, and financing necessary to achieve and maintain compliance with the Vermont Water Quality Standards for all State waters.

(2) Success in implementing the Clean Water Initiative will depend largely on providing sustained and adequate funding to support the implementation of all of the following:

(A) the requirements of 2015 Acts and Resolves No. 64;

(B) federal or State required cleanup plans for individual waters or water segments, such as total maximum daily load plans;

(C) the Agency of Natural Resources' Combined Sewer Overflow Rule;

(D) the operations of clean water service providers under chapter 37, subchapter 5 of this title; and

(E) the permanent protection of land and waters from future development and impairment through conservation and water quality projects funded by the Vermont Housing and Conservation Trust Fund authorized by chapter 15 of this title.

(3) To ensure success in implementing the Clean Water Initiative, the State should commit to funding the Clean Water Initiative in a manner that ensures the maintenance of effort and that provides an annual appropriation for clean water programs in a range of \$50 million to \$60 million as adjusted for inflation over the duration of the Initiative.

(4) To avoid the future impairment and degradation of the State's waters, the State should commit to continued funding for the protection of land and waters through agricultural and natural resource conservation, including through permanent easements and fee acquisition.

(b) The General Assembly establishes in this subchapter a Vermont Clean Water Fund as a mechanism for financing the improvement of water quality in the State. The Clean Water Fund shall be used to:

(1) ~~assist the State in complying with water quality requirements and construction or implementation of water quality projects or programs~~ the implementation of the Clean Water Initiative;

(2) fund staff positions at the Agency of Natural Resources, Agency of Agriculture, Food and Markets, or Agency of Transportation when the positions are necessary to achieve or maintain compliance with water quality requirements and existing revenue sources are inadequate to fund the necessary positions; and

(3) ~~provide funding to nonprofit organizations, regional associations, and other entities for implementation and administration of community-based water quality programs or projects~~ clean water service providers to meet the obligations of chapter 37, subchapter 5 of this title.

Sec. 4. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER BOARD

(a) Creation.

(1) There is created the Clean Water Board that shall:

(A) be responsible and accountable for planning, coordinating, and financing of the remediation, improvement, and protection of the quality of State waters;

(B) recommend to the Secretary of Administration expenditures:

(i) appropriations from the Clean Water Fund according to the priorities established under subsection (e) of this section; and

(ii) clean water water quality programs or projects that provide water quality benefits, reduce pollution, protect natural areas, enhance water

quality protections on agricultural land enhance flood and climate resilience, provide wildlife habitat, or promote and enhance outdoor recreation in support of rural community vitality to be funded by capital appropriations.

(2) The Clean Water Board shall be attached to the Agency of Administration for administrative purposes.

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

- (1) the Secretary of Administration or designee;
- (2) the Secretary of Natural Resources or designee;
- (3) the Secretary of Agriculture, Food and Markets or designee;
- (4) the Secretary of Commerce and Community Development or designee;
- (5) the Secretary of Transportation or designee; and
- (6) four members of the public, who are not legislators, with expertise in one or more of the following subject matters: public management, civil engineering, agriculture, ecology, wetlands, stormwater system management, forestry, transportation, law, banking, finance, and investment, to be appointed by the Governor.

* * *

(d) Powers and duties of the Clean Water Board. The Clean Water Board shall have the following powers and authority:

* * *

(3) The Clean Water Board shall:

~~(A) establish a process by which watershed organizations, State agencies, and other interested parties may propose water quality projects or programs for financing from the Clean Water Fund;~~

~~(B) develop an annual revenue estimate and proposed budget for the Clean Water Fund;~~

~~(C)~~(B) establish measures for determining progress and effectiveness of expenditures for clean water restoration efforts;

(C) if the Board determines that there are insufficient funds in the Clean Water Fund to issue all grants or financing required by sections 925-928 of this title, conduct all of the following:

(i) Direct the Secretary of Natural Resources to prioritize the work needed in every basin, adjust pollution allocations assigned to clean water service providers, and issue grants based on available funding.

(ii) Make recommendations to the Governor and General Assembly on additional revenue to address unmet needs.

(iii) Notify the Secretary of Natural Resources that there are insufficient funds in the Fund. The Secretary of Natural Resources shall consider additional regulatory controls to address water quality improvements that could not be funded.

(D) issue the annual Clean Water Investment Report required under section 1389a of this title; and

(E) solicit, consult with, and accept public comment from organizations interested in improving water quality in Vermont regarding recommendations under this subsection (d) for the allocation of funds from the Clean Water Fund; and

~~(F) establish a process under which a watershed organization, State agency, or other interested party may propose that a water quality project or program identified in a watershed basin plan receive funding from the Clean Water Fund~~ recommend capital appropriations for the permanent protection of land and waters from future development through conservation and water quality projects.

(e) Priorities.

~~(1)~~ In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize as follows:

~~(A) funding to programs and projects that address sources of water pollution in waters listed as impaired on the list of waters established by 33 U.S.C. § 1313(d);~~

~~(B) funding to projects that address sources of water pollution identified as a significant contributor of water quality pollution, including financial assistance to grant recipients at the initiation of a funded project;~~

(1) As a first priority, make recommendations regarding funding for the following grants and programs, which shall each be given equal priority:

(A) grants to clean water service providers to fund the reasonable costs associated with the inspection, verification, operation, and maintenance of clean water projects in a basin;

(B) the Water Quality Restoration Formula Grant under section 925 of this title;

(C) the Agency of Agriculture, Food and Markets' agricultural water quality programs; and

(D) the Water Quality Enhancement Grants under section 926 of this title at a funding level of at least 20 percent of the annual balance of the Clean Water Fund, provided that the maximum amount recommended under this subdivision (D) in any year shall not exceed \$ 5,000,000.00; and

(E) funding to partners for basin planning, basin water quality council participation, education, and outreach as provided in subdivision 1253(d)(3) of this title, provided funding shall be at least \$500,000.00.

(2) As the next priority after reviewing funding requests for programs identified under subdivision (1) of this subsection:

~~(C)(A)~~ funding to programs or projects that address or repair riparian conditions that increase the risk of flooding or pose a threat to life or property;

~~(D)~~ assistance required for State and municipal compliance with stormwater requirements for highways and roads;

~~(E)(B)~~ funding for education and outreach regarding the implementation of water quality requirements, including funding for education, outreach, demonstration, and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation;

~~(F)(C)~~ funding for the Municipal Stormwater Implementation Grant as provided in section 928 of this title;

~~(D)~~ funding for innovative or alternative technologies or practices designed to improve water quality or reduce sources of pollution to surface waters, including funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy; and

~~(G)(E)~~ funding to purchase agricultural land in order to take that land out of practice when the State water quality requirements cannot be remediated through agricultural Best Management Practices;

~~(H)~~ funding to municipalities for the establishment and operation of stormwater utilities; and

~~(1) investment in watershed basin planning, water quality project identification screening, water quality project evaluation, and conceptual plan development of water quality projects.~~

~~(2) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Clean Water Board shall, during the first three years of its existence and within the priorities established under subdivision (1) of this subsection (e), prioritize awards or assistance to municipalities for municipal compliance with water quality requirements and to municipalities for the establishment and operation of stormwater utilities.~~

~~(3) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of the priorities established under subdivision (1) of this subsection (e), attempt to provide investment in all watersheds of the State based on the needs identified in watershed basin plans.~~

(3) As the next priority after reviewing funding requests under subdivisions (1) and (2) of this subsection, funding for the Developed Lands Implementation Grant Program as provided in section 927 of this title.

(f) Assistance. The Clean Water Board shall have the administrative, technical, and legal assistance of the Agency of Administration, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and the Agency of Commerce and Community Development for those issues or services within the jurisdiction of the respective agency. The cost of the services provided by agency staff shall be paid from the budget of the agency providing the staff services.

Sec. 5. 24 V.S.A. § 4345a is amended to read:

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

(20) If designated as a clean water service provider under 10 V.S.A. § 924, provide for the identification, prioritization, development, construction, inspection, verification, operation, and maintenance of clean water projects in the basin assigned to the regional planning commission in accordance with the requirements of 10 V.S.A. chapter 37, subchapter 5.

Sec. 6. 10 V.S.A. § 704 is amended to read:

§ 704. POWERS OF COUNCIL

The State Natural Resources Conservation Council may employ an administrative officer and such technical experts and such other agents and employees as it may require. The Council may call upon the Attorney General of the State for such legal services as it may require, or may employ its own counsel. It shall have authority to delegate to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. If designated as a clean water service provider under section 924 of this title, provide for the identification, prioritization, development, construction, inspection, verification, operation, and maintenance of clean water projects in the basin assigned to a natural resources conservation district in accordance with the requirements of chapter 37, subchapter 5 of this title.

Sec. 7. RECOMMENDATIONS ON NUTRIENT CREDIT TRADING

On or before July 1, 2022, the Secretary of Natural Resources, after consultation with the Clean Water Board, shall submit to the Senate Committees on Appropriations, on Natural Resources and Energy, and on Finance and the House Committees on Appropriations, on Natural Resources, Fish, and Wildlife, and on Ways and Means recommendations regarding implementation of a market-based mechanism that allows the purchase of water quality credits by permittees under 10 V.S.A. chapter 47, and other entities. The report shall include information on the cost to develop and manage any recommended trading program.

Sec. 8. TRANSITION

(a) Until November 1, 2021, the Secretary shall implement the existing ecosystem restoration funding delivery program and shall not make substantial modifications to the manner in which that program has been implemented. The Secretary may give increased priority to meeting legal obligations pursuant to a total maximum daily load when implementing that funding delivery program.

(b) Until the plan required by 10 V.S.A. § 923(d)(2) has been fully implemented, the Secretary shall provide additional weight to geographic areas of the State not receiving a grant pursuant to 10 V.S.A. § 925 when making funding decisions with respect to grants awarded pursuant to 10 V.S.A. § 926.

Sec. 9. LAND AND WATER CONSERVATION STUDY

(a) The State's success in achieving and maintaining compliance with the Vermont Water Quality Standards for all State waters depends on avoiding the future degradation or impairment of surface waters. An important component of avoiding the future degradation or impairment of surface waters is the permanent protection of lands for multiple conservation purposes, including

the protection of surface waters and associated natural resources, according to priorities for multiple conservation values, including water quality benefits, natural areas, flood and climate resilience, wildlife habitat, and outdoor recreation.

(b) The State's success in achieving and maintaining compliance with the Vermont Water Quality Standards depends in part on strategic land conservation. To assist the State in enhancing the benefit of strategic land conservation, the Secretary of Natural Resources shall convene a Land and Water Conservation Study Stakeholder Group to develop a recommended framework for statewide land conservation. On or before January 15, 2020, the Secretary shall submit the Stakeholder Group's recommended framework for statewide land conservation to the General Assembly. The recommended framework shall include:

(1) recommendations for maximizing both water quality benefits and other state priorities from land conservation projects, including agricultural uses, natural area and headwaters protection, flood and climate resilience, wildlife habitat, outdoor recreation, and rural community development; and

(2) recommended opportunities to leverage federal and other nonstate funds for conservation projects.

(c)(1) The Land and Water Conservation Study Stakeholder Group shall include the following individuals or their designees:

(A) the Secretary of Natural Resources;

(B) the Secretary of Agriculture, Food and Markets;

(C) the Executive Director of the Vermont Housing and Conservation Board;

(D) the President of the Vermont Land Trust;

(E) the Vermont and New Hampshire Director of the Trust for Public Land; and

(F) the Director of the Nature Conservancy for the State of Vermont.

(2) The Secretary of Natural Resources shall invite the participation in the Stakeholder Group by the U.S. Department of Agriculture's Natural Resources Conservation Service, representatives of farmer's watershed alliances, representatives of landowner organizations, and other interested parties.

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

§ 1389a. CLEAN WATER INVESTMENT REPORT

(a) Beginning on January 15, 2017, and annually thereafter, the Secretary of Administration shall publish the Clean Water Investment Report. The Report shall summarize all investments, including their cost-effectiveness, made by the Clean Water Board and other State agencies for clean water restoration over the prior fiscal year. The Report shall include expenditures from the Clean Water Fund, the General Fund, the Transportation Fund, and any other State expenditures for clean water restoration, regardless of funding source.

(b) The Report shall include:

(1) Documentation of progress or shortcomings in meeting established indicators for clean water restoration.

(2) A summary of additional funding sources pursued by the Board, including whether those funding sources were attained; if it was not attained, why it was not attained; and where the money was allocated from the Fund.

(3) A summary of water quality problems or concerns in each watershed basin of the State, a list of water quality projects identified as necessary in each basin of the State, and how identified projects have been prioritized for implementation. The water quality problems and projects identified under this subdivision shall include programs or projects identified across State government and shall not be limited to projects listed by the Agency of Natural Resources in its watershed projects database.

(4) A summary of any changes to applicable federal law or policy related to the State's water quality improvement efforts, including any changes to requirements to implement total maximum daily load plans in the State.

(5) A summary of available federal funding related to or for water quality improvement efforts in the State.

(6) Beginning January 2023, a summary of the administration of the grant programs established under sections 925–928 of this title, including whether these grant programs are adequately funding implementation of the Clean Water Initiative and whether the funding limits for the Water Quality Enhancement Grants under subdivision 1389(e)(1)(D) of this title should be amended to improve State implementation of the Clean Water Initiative.

(c) The Report may also provide an overview of additional funding necessary to meet objectives established for clean water restoration and recommendations for additional revenue to meet those restoration objectives. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report required by this section.

(d)(1) The Secretary of Administration shall develop and use a results-based accountability process in publishing the annual report required by subsection (a) of this section.

(2) The Secretary of Administration shall develop user-friendly issue briefs, tables, or executive summaries that make the information required under subdivision (b)(3) available to the public separately from the report required by this section.

(3) On or before September 1 of each year, the Secretary of Administration shall submit to the Joint Fiscal Committee an interim report regarding the information required under subdivision (b)(5) of this section relating to available federal funding.

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee vote: 9-1-0)

(For text see Senate Journal March 27, 2019)

Rep. Ancel of Calais, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Natural Resources; Fish; and Wildlife and when further amended as follows:

First: By adding a Sec. 3a to read as follows:

Sec. 3a. 10 V.S.A. § 1388 is amended to read:

§ 1388. CLEAN WATER FUND

(a) There is created a special fund to be known as the Clean Water Fund to be administered by the Secretary of Administration. The Fund shall consist of:

(1) revenues from the Property Transfer Tax surcharge established under 32 V.S.A. § 9602a;

(2) other gifts, donations, and impact fees received from any source, public or private, dedicated for deposit into the Fund and approved by the Secretary of Administration;

(3) the unclaimed beverage container deposits (escheats) remitted to the State under chapter 53 of this title; ~~and~~

(4) four percent of the revenues from the meals and rooms taxes imposed under 32 V.S.A. chapter 225; and

~~(4)(5)~~ other revenues dedicated for deposit into the Fund by the General Assembly.

* * *

Second: By adding Secs. 4a and 4b to read as follows:

Sec. 4a. 16 V.S.A. § 4025 is amended to read:

§ 4025. EDUCATION FUND

(a) The Education Fund is established to comprise the following:

* * *

(4) ~~25~~ 21 percent of the revenues from the meals and rooms taxes imposed under 32 V.S.A. chapter 225;

* * *

Sec. 4b. REPEAL

Sec. G.8 (prewritten software accessed remotely) of 2015 Acts and Resolves No. 51 is repealed.

(Committee Vote: 10-1-0)

S. 112

An act relating to earned good time

Rep. Shaw of Pittsford, for the Committee on Corrections and Institutions, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS; INTENT

(a) The General Assembly finds that:

(1) For nearly 40 years, Vermont had a system of statutory good time that permitted offenders to receive reductions in their sentences for maintaining good behavior and participating in programming while in the custody of the Commissioner of Corrections. This good time system was repealed in 2005.

(2) In 2018, the General Assembly directed the Commissioner of Corrections, in consultation with the Chief Superior Judge, the Attorney General, the Executive Director of the Department of Sheriffs and State's Attorneys, and the Defender General, to submit a report (the Report) to the Legislature on the advisability and feasibility of reinstating a system of earned good time for persons under Department of Corrections supervision. The Report was filed on November 15, 2018.

(3) In the Report, the Commissioner found that:

(A) empirical studies show that earned good time is effective at prison population management, has little to no community impact or effect on public safety, and is perceived by correctional administrators as having a positive impact on facility control;

(B) earned good time reduces incarceration costs by an amount ranging from \$1,800.00 to \$5,500.00 per inmate, depending on the number of days an inmate's sentence is reduced; and

(C) although research is mixed, studies show that earned good time can result in a crime rate reduction of 1–3.5 percent.

(4) On the basis of the Report's findings, the Commissioner concluded that the Department should "reinstigate a program of earned good time for sentenced inmates and individuals on furlough."

(5) In order to reduce the State's prison population by reintegrating offenders into the community while maintaining public safety, a system of earned good time should be reinstated in Vermont as soon as possible.

(b) It is the intent of the General Assembly that the earned good time program established pursuant to 28 V.S.A. § 818:

(1) be a simple and straightforward program that as much as possible minimizes complexities in implementation and management;

(2) relies on easily ascertainable and objective standards and criteria for awarding good time rather than subjectivity and the application of discretion by the Department of Corrections; and

(3) recognizes that there is a role in the correctional system for providing inmates with an incentive to reduce their sentences by adhering to Department of Corrections requirements.

Sec. 2. 28 V.S.A. § 818 is added to read:

§ 818. EARNED GOOD TIME; REDUCTION OF TERM

(a) On or before July 1, 2020, the Department of Corrections shall file a proposed rule pursuant to 3 V.S.A. chapter 25 implementing an earned good time program.

(b) The earned good time program implemented pursuant to this section shall comply with the following standards:

(1) The program shall be available for all sentenced offenders, including furloughed offenders, provided that the program shall not be available to offenders on probation or parole, to offenders eligible for a reduction of term pursuant to 28 V.S.A. § 811, or to offenders sentenced to life without parole.

(2) Offenders shall earn a reduction of five days in the minimum and maximum sentence for each month during which the offender:

(A) is not adjudicated of a major disciplinary rule violation; and

(B) is not reincarcerated from the community for a violation of release conditions, provided that an offender who loses a residence for a reason other than fault on the part of the offender shall not be deemed reincarcerated under this subdivision.

(3) An offender who receives post-adjudication treatment in a residential setting for a substance use disorder shall earn a reduction of one day in the minimum and maximum sentence for each day that the offender receives the inpatient treatment. While a person is in residential substance abuse treatment, he or she shall not be eligible for good time except as provided in this subsection.

(4) The Department shall provide timely notice no less frequently than every 90 days to the offender and to any victim of record any time the offender receives a reduction in his or her term of supervision pursuant to this section, and the Department shall maintain a system that documents and records all such reductions in each offender's permanent record.

(5) The program shall become effective upon the Department's adoption of final proposed rules pursuant to 3 V.S.A. § 843.

Sec. 3. 28 V.S.A. § 819 is added to read:

§ 819. MERITORIOUS GOOD TIME

(a) Notwithstanding any other provision of law, the Commissioner may, in his or her discretion, award a reduction of up to 30 days in an offender's minimum and maximum sentence if the Commissioner determines that the offender has:

(1) acted to protect the life or safety of another person;

(2) performed an act that put the inmate in harm's way in order to protect or preserve the life of another person; or

(3) performed an act of heroism during an emergency.

(b) An award of meritorious good time under this section may be made to an inmate:

(1) sentenced or committed to the custody of the commissioner as defined in 28 V.S.A. § 701;

(2) furloughed as defined in 28 V.S.A. § 808;

(3) on parole as defined in 28 V.S.A. § 402; or

(4) on supervised community sentence as defined in 28 V.S.A. § 351.

(c) Within 30 days after an award of meritorious good time pursuant to this section, the Department's Victim Services Unit shall provide notice of the award and the newly effective minimum and maximum release dates to any victim of record.

Sec. 4. 13 V.S.A. § 7031 is amended to read:

§ 7031. FORM OF SENTENCES; MAXIMUM AND MINIMUM TERMS

* * *

(b) The sentence of imprisonment of any person convicted of an offense shall commence to run from the date on which the person is received at the correctional facility for service of the sentence. The court shall give the person credit toward service of his or her sentence for any days spent in custody as follows:

(1) The period of credit for concurrent and consecutive sentences shall include all days served from the date of arraignment or the date of the earliest detention for the offense, whichever occurs first, and end on the date of the sentencing. Only a single credit shall be awarded in cases of consecutive sentences, and no credit for one period of time shall be applied to a later period.

(2) In sentencing a violation of probation, the court shall give the person credit for any days spent in custody from the time the violation is filed or the person is detained on the violation, whichever occurs first, until the violation is sentenced. In a case in which probation is revoked and the person is ordered to serve the underlying sentence, the person shall receive credit for all time previously served in connection with the offense.

(3) A defendant who has received pre-adjudication treatment in a residential setting for a substance use disorder after the charge has been filed shall earn a reduction of one day in the offender's minimum and maximum sentence for each day that the offender receives the inpatient treatment.

* * *

Sec. 5. APPLICABILITY OF EARNED GOOD TIME; REPORT

On or before December 15, 2019, the Commissioner of Corrections, in consultation with the Chief Superior Judge, the Attorney General, the Executive Director of the Department of Sheriffs and State's Attorneys, the Defender General, and the Executive Director of the Center for Crime Victim's

Services shall report to the Senate and House Committees on Judiciary, the Senate Committee on Institutions, and the House Committee on Corrections and Institutions a proposal for the availability of earned good time. The proposal required by this section shall recommend whether the earned good time program required by 28 V.S.A. § 818 should, in addition to being available to offenders sentenced on or after the date the program becomes effective, also be available to offenders in the custody of the Commissioner of Corrections who were sentenced before the effective date of the program.

Sec. 6. PRESUMPTIVE PAROLE; REPORT

(a) On or before December 15, 2019, the Department of Corrections and the Parole Board shall report to the House Committee on Corrections and Institutions and the House and Senate Committees on Judiciary a proposal for implementing a system of presumptive parole for inmates in the custody of the Commissioner of Corrections.

(b) The proposal developed pursuant to this section shall:

(1) address who is eligible for presumptive parole;

(2) address how presumptive parole would affect good time;

(3) provide a presumption that an eligible inmate who is serving a sentence of imprisonment shall be released on parole upon completion of the inmate's minimum sentence; and

(4) describe how the Department of Corrections may rebut the presumption of parole and what standard the Parole Board would use to decide whether parole should be granted.

(c) The Department of Corrections and the Parole Board shall consult with the Attorney General and the Defender General in developing the proposal required by this section.

(d) The Department of Corrections and the Parole Board shall provide regular interim reports to the Joint Legislative Justice Oversight Committee on its progress toward developing the proposal required by this section.

Sec. 7. SUNSET; MERITORIOUS GOOD TIME REPORT

(a) 28 V.S.A. § 819 (meritorious good time) shall be repealed on July 1, 2021.

(b)(1) On or before December 15, 2020, the Department of Corrections shall provide a report on the meritorious good time program established pursuant to 28 V.S.A. § 819 to the House Committee on Corrections and Institutions and the House and Senate Committees on Judiciary.

(2) The report required by this subsection shall include:

(A) the number of offenders who have been awarded a meritorious good time sentence reduction and the basis for each reduction; and

(B) an evaluation of the program and any recommended changes.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 10-0-1)

(For text see Senate Journal March 21, 2019)

S. 113

An act relating to the prohibition of plastic carryout bags, expanded polystyrene, and single-use plastic straws

Rep. McCullough of Williston, for the Committee on Natural Resources; Fish; and Wildlife, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PURPOSE

It is the purpose of this act to:

(1) mitigate the harmful effects of single-use products on Vermont's municipalities and natural resources; and

(2) relieve the pressure for landfills to manage the disposition of single-use products.

Sec. 2. 10 V.S.A. chapter 159, subchapter 5 is added to read:

Subchapter 5. Single-Use Carryout Bags; Expanded Polystyrene Food Service Products; Single-use Plastic Straws; and Single-use Plastic Stirrers

§ 6691. DEFINITIONS

As used in this subchapter:

(1) "Agency" means the Agency of Natural Resources.

(2) "Carryout bag" means a bag provided by a store or food service establishment to a customer at the point of sale for the purpose of transporting groceries or retail goods, except that a "carryout bag" shall not mean:

(A) a bag provided by a pharmacy to a customer purchasing a prescription medication; or

(B) a bag in which loose produce or products are placed by a consumer or a store employee to deliver the produce or products to the point of sale.

(3) “Expanded polystyrene” means blown polystyrene and expanded and extruded foams that are thermoplastic petrochemical materials utilizing a styrene monomer and processed by a number of techniques, including: fusion of polymer spheres, known as expandable bead 20 polystyrene; injection molding; foam molding; and extrusion-blow molding, also known as extruded foam polystyrene.

(4)(A) “Expanded polystyrene food service product” means a product made of expanded polystyrene that is:

(i) used for selling or providing food or beverages and intended by the manufacturer to be used once for eating or drinking; or

(ii) generally recognized by the public as an item to be discarded after one use.

(B) “Expanded polystyrene food service product” shall include:

(i) food containers;

(ii) plates;

(iii) hot and cold beverage cups;

(iv) trays; and

(v) cartons for eggs or other food.

(C) “Expanded polystyrene food service product” shall not include:

(i) food or beverages that have been packaged in expanded polystyrene outside the State before receipt by a food service establishment or store;

(ii) a product made of expanded polystyrene that is used to package raw, uncooked, or butchered meat, fish, poultry, or seafood; or

(iii) nonfoam polystyrene food service products.

(5) “Food service establishment” has the same meaning as in 18 V.S.A. § 4301.

(6) “Plastic” means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal, including material derived from either petroleum or a biologically based polymer, such as corn or other plant

sources.

(7) “Point of sale” means a check-out stand, cash register, or other point of departure from a store or food service establishment, including the location where remotely ordered food or products are delivered to a purchaser.

(8) “Reusable carryout bag” means a carryout bag that is designed and manufactured for multiple uses and is:

(A) made of cloth or other machine-washable fabric that has stitched handles; or

(B) a polypropylene bag that has stitched handles.

(9) “Secretary” means the Secretary of Natural Resources.

(10) “Single-use plastic carryout bag” means a carryout bag that is:

(A) made of plastic;

(B) a single use product; and

(C) not a reusable carryout bag.

(11) “Single-use plastic stirrer” means a device that is:

(A) used to mix beverages;

(B) made predominantly of plastic; and

(C) a single-use product.

(12) “Single-use plastic straw” means a tube made of plastic that is:

(A) used to transfer liquid from a container to the mouth of a person drinking the liquid; and

(B) is a single-use product.

(13) “Single-use product” or “single use” means a product designed and manufactured to be used only once and is generally recognized by the public as an item that is to be discarded after one use.

(14) “Single-use, recyclable paper carryout bag” means a carryout bag made of paper that:

(A) contains at least 40 percent post-consumer recycled material;

(B) is 100 percent recyclable; and

(C) is a single-use product.

(15) “Store” means a grocery store, supermarket, convenience store, liquor store, drycleaner, pharmacy, drug store, or other retail establishment that provides carryout bags to its customers.

§ 6692. SINGLE-USE PLASTIC CARRYOUT BAGS; PROHIBITION

A store or food service establishment shall not provide a single-use plastic carryout bag to a customer.

§ 6693. SINGLE-USE, RECYCLABLE PAPER CARRYOUT BAG

(a) A store or food service establishment may, upon request, provide a consumer a carryout bag made of paper at the point of sale if the bag is a single-use, recyclable paper carryout bag.

(b) A store or food service establishment may charge for the provision of a single-use, recyclable paper carryout bag, provided that if a charge is assessed, the amount of the charge shall not be less than \$0.10 per bag.

(c) All monies collected by a store or food service establishment under this section for provision of a single-use, recyclable paper carryout bag shall be retained by the store or food service establishment.

§ 6694. SINGLE-USE PLASTIC STRAWS

(a) A food service establishment shall not provide a single-use plastic straw to a customer, except that a food service establishment may provide a straw to a person upon request.

(b) The prohibition on sale or provision of a single-use plastic straw under subsection (a) of this section shall not apply to:

(1) a hospital licensed under 18 V.S.A. chapter 43;

(2) a nursing home, residential care home, assisted living residence, home for the terminally ill, or therapeutic community, as those terms are defined in 33 V.S.A. chapter 71; or

(3) an independent living facility as that term is defined in 32 V.S.A. chapter 225.

(c) This section shall not alter the requirements of 9 V.S.A. chapter 139 regarding the provision of services by a place of public accommodation.

§ 6695. SINGLE-USE PLASTIC STIRRERS

A food service establishment shall not provide a single-use plastic stirrer to a customer.

§ 6696. EXPANDED POLYSTYRENE FOOD SERVICE PRODUCTS

(a) A person shall not sell or offer for sale in the State an expanded polystyrene food service product.

(b) A store or food service establishment shall not sell or provide food or beverages in an expanded polystyrene food service product.

(c) This section shall not prohibit a person from storing or packaging a food or beverage in an expanded polystyrene food service product for distribution out of State.

§ 6697. CIVIL PENALTIES; WARNING

(a) A person, store, or food service establishment that violates the requirements of this subchapter shall:

(1) receive a written warning for a first offense;

(2) be subject to a civil penalty of \$25.00 for a second offense; and

(3) be subject to a civil penalty of \$100.00 for a third or subsequent offense.

(b) For the purposes of enforcement under this subchapter, an offense shall be each day a person, store, or food service establishment is violating the requirement of this subchapter.

§ 6698. RULEMAKING

The Secretary may adopt rules to implement the requirements of this subchapter.

§ 6699. APPLICATION TO MUNICIPAL BYLAWS, ORDINANCES, OR CHARTERS; PREEMPTION

(a) The General Assembly finds that the requirements of this chapter are of statewide interest and shall be applied uniformly in the State and shall occupy the entire field of regulation of single-use plastic carryout bags, single-use, recyclable paper carryout bag, single-use plastic straws, single-use plastic stirrers, and expanded polystyrene food service products.

(b) A municipal ordinance, bylaw, or charter adopted or enacted before July 1, 2020 that regulates or addresses the use, sale, or provision of single-use plastic carryout bags, single-use paper carryout bags, single-use plastic straws, single-use plastic stirrers, or expanded polystyrene food service products is preempted by the requirements of this subchapter and a municipality shall not enforce or otherwise implement the ordinance, bylaw, or charter.

Sec. 3. SINGLE-USE PRODUCTS WORKING GROUP; REPORT

(a) Creation; purpose. There is created the Single-Use Products Working

Group to:

(1) evaluate current State and municipal policy and requirements for the management of single-use products; and

(2) recommend to the Vermont General Assembly policy or requirements that the State should enact to:

(A) reduce the use of single-use products;

(B) reduce the environmental impact of single-use products;

(C) improve statewide management of single-use products;

(D) divert single-use products from disposal in landfills; and

(E) prevent contamination of natural resources by discarded single-use products.

(b) Definitions. As used in this section:

(1) “Carryout bag” means a bag provided by a store or food service establishment to a customer at the point of sale for the purpose of transporting groceries or retail goods.

(2) “Disposable plastic food service ware” means containers, plates, clamshells, serving trays, meat and vegetable trays, hot and cold beverage cups, cutlery, and other utensils that are made of plastic or plastic-coated paper, including products marketed as biodegradable products but a portion of the product is not compostable.

(3) “Expanded polystyrene food service product” means a product made of expanded polystyrene that is:

(A) used for selling or providing food or beverages and intended by the manufacturer to be used once for eating or drinking; or

(B) generally recognized by the public as an item to be discarded after one use.

(4) “Extended producer responsibility” means a requirement for a producer of a product to provide for and finance the collection, transportation, reuse, recycling, processing, and final management of the product.

(5) “Food service establishment” has the same meaning as in 18 V.S.A. § 4301.

(6) “Packaging” means materials that are used for the containment, protection, handling, delivery, and presentation of goods sold or delivered in Vermont.

(7) “Plastic” means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal.

(8) “Point of sale” means a check-out stand, cash register, or other point of departure from a store or food service establishment, including the location where remotely ordered food or products are delivered to a purchaser.

(9) “Printed materials” means material that is not packaging, but is printed with text or graphics as a medium for communicating information, including telephone books but not including other bound reference books, bound literary books, or bound textbooks.

(10) “Single-use” means a product that is designed and intended to be used only once and is generally recognized by the public as an item that is to be discarded after one use.

(11) “Single-use products” means single-use carryout bags, single-use packaging, single-use disposable plastic food service ware, expanded polystyrene food service products, printed materials, and other single-use plastics or single-use products that are provided to consumers by stores, food service establishments, or other retailers.

(12) “Store” means a grocery store, supermarket, convenience store, liquor store, pharmacy, drycleaner, drug store, or other retail establishment.

(13) “Unwanted” means when a person in possession of a product intends to abandon or discard the product.

(c) Membership. The Single-Use Products Working Group shall be composed of the following members:

(1) a member of the Senate appointed by the Committee on Committees;

(2) a member of the House of Representatives appointed by the Speaker of the House;

(3) the Secretary of Natural Resources or designee;

(4) a representative of a single-stream materials recovery facility located in Vermont appointed by the Governor;

(5) one representative from a solid waste management entity in the State, appointed by the Committee on Committees;

(6) one representative from the Vermont League of Cities and Towns appointed by the Speaker of the House;

(7) one representative of an association or group representing manufacturers or distributors of single-use products appointed by the Governor;

(8) one representative of an environmental advocacy group located in the State that advocates for the reduction of solid waste and the protection of the environment appointed by the Speaker of the House; and

(9) one representative of stores or food service establishments in the State, appointed by the Committee on Committees.

(d) Powers and duties. The Single-Use Products Working Group shall:

(1) Evaluate the success of existing State and municipal requirements for the management of unwanted single-use products.

(2) Estimate the effects on landfill capacity of single-use products that can be recycled, but are currently being disposed.

(3) Recommend methods or mechanisms to address the effects on landfill capacity of single-use products that can be recycled, but are currently being disposed, in order to improve the management of single-use products in the State, including whether the State should establish extended producer responsibility or similar requirements for manufacturers, distributors, or brand owners of single-use products.

(4) If extended producer responsibility or similar requirements for single-use products are recommended under subdivision (3) of this subsection, recommend:

(A) The single-use products to be included under the requirements.

(B) A financial incentive for manufacturers, distributors, or brand owners of single-use products to minimize the environmental impacts of the products in Vermont. The environmental impacts considered shall include review of the effect on climate change of the production, use, transport, and recovery of single-use products.

(C) How to structure a requirement for manufacturers, distributors, or brand owners to provide for or finance the collection, processing, and recycling of single-use products using existing infrastructure in the collection, processing, and recycling of products where feasible.

(5) An estimate of the costs and benefits of any recommended method or mechanism for improving the management of single-use products in the State.

(e) Assistance. The Single-Use Products Working Group shall have the

administrative, technical, financial, and legal assistance of the Agency of Natural Resources, the Department of Health, the Office of Legislative Council, and the Joint Fiscal Office.

(f) Report. On or before December 1, 2019, the Single-Use Products Working Group shall submit to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife the findings and recommendations required under subsection (d) of this section.

(g) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Single-Use Products Working Group to occur on or before July 1, 2019.

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

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

(4) The Working Group shall cease to exist on February 1, 2020.

(h) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Working Group serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings.

(2) Other members of the Working Group shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings.

(3) Payments to members of the Working Group authorized under this subsection shall be made from monies appropriated to the General Assembly.

Sec. 4. ANR REPORT ON LANDFILL OPERATION IN THE STATE

As part of the Biennial Report on Solid Waste required under 10 V.S.A. § 6604(b) to be submitted to the General Assembly in 2021, the Secretary of Natural Resources shall include a feasibility study addressing issues related to the opening of a second landfill in the State. The report shall include:

(1) An assessment of the capacity of the two sites in the State that are currently permitted and certified for landfill operation, but are not in operation, to receive solid waste.

(2) An evaluation of the environmental costs of continuing to truck solid waste to a single landfill located in the northeast corner of the State. This evaluation shall include the amount of greenhouse gases emitted over the course of a year from trucks making round trips to the existing landfill in Vermont. The evaluation shall also include an estimate of the impact that trucking to the one landfill in the State is having annually on the State transportation infrastructure.

(3) An estimate of the timeframe to physically activate either one or both of the sites in the State that are currently permitted and certified for landfill operation, but are not in operation, to receive solid waste.

(4) An estimate of the timeframe to locate and operate an additional solid waste landfill in the State.

Sec. 5. EFFECTIVE DATES

(a) This section, Sec. 1 (purpose), Sec. 3 (single-use working group), and Sec. 4 (landfill report) shall take effect on passage.

(b) Sec. 2 (single-use products) shall take effect July 1, 2020.

(Committee vote: 8-2-0)

(For text see Senate Journal March 29, 2019)

S. 131

An act relating to insurance and securities

Rep. Jerome of Brandon, for the Committee on Commerce and Economic Development, recommends that the House propose to the Senate that the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Insurance Regulatory Sandbox; Sunset * * *

Sec. 1. 8 V.S.A. § 15a is added to read:

§ 15a. INSURANCE REGULATORY SANDBOX; INNOVATION WAIVER; SUNSET

(a) Subject to the limitations specified in subsection (g) of this section, the Commissioner may grant a variance or waiver (innovation waiver or waiver) with respect to the specific requirements of any insurance law, regulation, or bulletin if a person subject to that law, regulation, or bulletin demonstrates to the Commissioner's satisfaction that:

(1) the application of the law, regulation, or bulletin would prohibit the introduction of an innovative or more efficient insurance product or service

that the applicant intends to offer during the period for which the proposed waiver is granted;

(2) the public policy goals of the law, regulation, or bulletin will be or have been achieved by other means;

(3) the waiver will not substantially or unreasonably increase any risk to consumers; and

(4) the waiver is in the public interest.

(b) An application for an innovation waiver shall include the following information:

(1) the identity of the person applying for the waiver;

(2) a description of the product or service to be offered if the waiver is granted, including how the product or service functions and the manner and terms on which it will be offered;

(3) an explanation of the potential benefits to consumers of the product or service;

(4) an explanation of the potential risks to consumers posed by the product or service and how the applicant proposes to mitigate such risks;

(5) an identification of the statutory or regulatory provision that prohibits the introduction, sale, or offering of the product or service; and

(6) any additional information required by the Commissioner.

(c)(1) An innovation waiver shall be granted for an initial period of up to 12 months, as deemed appropriate by the Commissioner.

(2) Prior to the end of the initial waiver period, the Commissioner may grant a one-time extension for up to an additional 12 months. An extension request shall be made to the Commissioner at least 30 days prior to the end of the initial waiver period and shall include the length of the extension period requested and specific reasons why the extension is necessary. The Commissioner shall grant or deny an extension request before the end of the initial waiver period.

(d) An innovation waiver shall include any terms, conditions, and limitations deemed appropriate by the Commissioner, including limits on the amount of premium that may be written in relation to the underlying product or service and the number of consumers that may purchase or utilize the underlying product or service; provided that in no event shall a product or service subject to an innovation waiver be purchased or utilized by more than 10,000 Vermont consumers.

(e) A product or service offered pursuant to an innovation waiver shall include the following written disclosures to consumers in clear and conspicuous form:

(1) the name and contact information of the person providing the product or service;

(2) that the product or service is authorized pursuant to an innovation waiver for a temporary period of time and may be discontinued at the end of the waiver period, the date of which shall be specified;

(3) contact information for the Department, including how a consumer may file a complaint with the Department regarding the product or service; and

(4) any additional disclosures required by the Commissioner.

(f) The Commissioner's decision to grant or deny a waiver or extension shall not be subject to the contested-case provisions of the Vermont Administrative Procedures Act.

(g)(1) Pursuant to the authority granted by this section, the Commissioner shall not grant a waiver with respect to any of the following:

(A) Any law, regulation, bulletin, or other provision that is not subject to the Commissioner's jurisdiction under Title 8;

(B) section 3304, 3366, or 6004(a)–(b) of this title or any other requirement as to the minimum amount of paid-in capital or surplus required to be possessed or maintained by any person;

(C) chapter 107 (concerning health insurance), 112 (concerning the Vermont Life and Health Insurance Guaranty Association Act), 117 (concerning workers' compensation insurance), 129 (concerning insurance trade practices), or 131 (concerning licensing requirements), and chapter 154 (concerning long-term care insurance) of this title or any regulations or bulletins directly relating thereto;

(D) section 4211 (concerning volunteer drivers) of this title;

(E) any law, regulation, or bulletin required for the Department to maintain its accreditation by the National Association of Insurance Commissioners unless said law or regulation permits variances or waivers;

(F) the application of any taxes or fees; and

(G) any other law or regulation deemed ineligible by the Commissioner.

(2) The authority granted to the Commissioner under this section shall not be construed to allow the Commissioner to grant or extend a waiver that would abridge the recovery rights of Vermont policyholders.

(h) A person who receives a waiver under this section shall be required to make a deposit of cash or marketable securities with the State Treasurer in an amount subject to such conditions and for such purposes as the Commissioner determines necessary for the protection of consumers.

(i)(1) At least 30 days prior to granting an innovation waiver, the Commissioner shall provide public notice of the draft waiver by publishing the following information:

(A) the specific statute, regulation, or bulletin to which the draft waiver applies;

(B) the proposed terms, conditions, and limitations of the draft waiver;

(C) the proposed duration of the draft waiver; and

(D) any additional information deemed appropriate by the Commissioner.

(2) The notice requirement of this subsection may be satisfied by publication on the Department's website.

(j)(1) If a waiver is granted pursuant to this section, the Commissioner shall provide public notice of the existence of the waiver by providing the following information:

(A) the specific statute, regulation, or bulletin to which the waiver applies;

(B) the name of the person who applied for and received the waiver;

(C) the duration of and any other terms, conditions, or limitations of the waiver; and

(D) any additional information deemed appropriate by the Commissioner.

(2) The notice requirement of this subsection may be satisfied by publication on the Department's website.

(k) The Commissioner, by regulation, shall adopt uniform procedures for the submission, granting, denying, monitoring, and revocation of petitions for a waiver pursuant to this section. The procedures shall set forth requirements for the ongoing monitoring, examination, and supervision of, and reporting by,

each person granted a waiver under this section and shall permit the Commissioner to attach reasonable conditions or limitations on the conduct permitted pursuant to a waiver. The procedures shall provide for an expedited application process for a product or service that is substantially similar to one for which a waiver has previously been granted by the Commissioner. The procedures shall include an opportunity for public comment on draft waivers under consideration by the Commissioner.

(l) Upon expiration of an innovation waiver, the person who obtained the waiver shall cease all activities that were permitted only by the waiver and comply with all generally applicable laws and regulations.

(m) The ability to grant a waiver under this section shall not be interpreted to limit or otherwise affect the authority of the Commissioner to exercise discretion to waive or enforce requirements as permitted under any other section of this title or any regulation or bulletin adopted pursuant thereto.

(n)(1) Biannually, beginning on January 15, 2020, the Commissioner shall submit a report to the General Assembly providing the following information:

(A) the total number of petitions for waivers that have been received, granted, and denied by the Commissioner;

(B) for each waiver granted by the Commissioner, the information specified under subsection (f) of this section;

(C) a list of any regulations or bulletins that have been adopted or amended as a result of or in connection with a waiver granted under this section;

(D) with respect to each statute to which a waiver applies, the Commissioner's recommendation as to whether such statute should be continued, eliminated, or amended in order to promote innovation and establish a uniform regulatory system for all regulated entities; and

(E) a list of any waivers that have lapsed or been revoked and, if revoked, a description of other regulatory or disciplinary actions, if any, that resulted in, accompanied, or resulted from such revocation.

(2) In the report submitted to the General Assembly on or before January 15, 2020, the Commissioner shall include a recommendation on whether there are any opportunities for the State to monetize its role in developing innovative insurance products and services that are subsequently offered in other jurisdictions. The Commissioner's recommendation shall ensure that any regulatory financial incentives under a monetization proposal would not conflict with the best interests of Vermont policyholders or the public good of the State.

(o) No new waivers or extensions shall be granted after July 1, 2021.

(p) This section shall be repealed on July 1, 2023.

* * * Capital and Surplus Requirements * * *

Sec. 2. [Deleted.]

Sec. 3. 8 V.S.A. § 3366 is amended to read:

§ 3366. ASSETS OF COMPANIES

(a)(1) ~~Such~~ A foreign or alien insurer authorized to do business in this State shall possess and thereafter maintain unimpaired paid-in capital or basic surplus of not less than \$2,000,000.00 and, when first so authorized, shall possess and maintain free surplus of not less than \$3,000,000.00. ~~Such~~

(2) The capital and surplus shall be in the form of cash or marketable securities, a portion of which may be held on deposit with the State Treasurer, such securities as designated by the insurer and approved by the Commissioner, in an amount and subject to ~~such~~ conditions determined by the Commissioner. ~~Such~~ The conditions shall include a requirement that any interest or other earnings attributable to such cash or marketable securities shall inure to the benefit of the insurer until such time as the Commissioner determines that the deposit must be used for the benefit of the policyholders of the insurer or some other authorized public purpose relating to the regulation of the insurer.

(3) The Commissioner may prescribe additional capital or surplus for all insurers authorized to transact the business of insurance based upon the type, volume, and nature of insurance business transacted. The Commissioner may reduce or waive the capital and surplus amounts required by this section pursuant to a plan of dissolution for the company approved by the Commissioner.

(b) The express purpose of subsection (a) of this section and the Commissioner's power to require the deposit of cash or marketable securities set forth therein is to protect the interests of Vermont policyholders in the event of the insolvency of the insurer. Except to the extent it would contravene applicable provisions of 9A V.S.A. Article 9, the State of Vermont shall be deemed to control the funds on deposit and to have a lien on the funds for the benefit of the Vermont policyholders affected by the insolvency. The lien so created shall be superior to any lien filed by a general creditor of the insurer.

* * * Domestic Surplus Lines Insurer; Home State Surplus Lines

Premium Taxation * * *

Sec. 4. 8 V.S.A. § 5022 is amended to read:

§ 5022. DEFINITIONS

* * *

(b) As used in this chapter:

(1) “Admitted insurer” means an insurer possessing a certificate of authority licensed to transact business in this State issued by the Commissioner pursuant to section 3361 of this title. For purposes of this chapter, “admitted insurer” shall not include a domestic surplus lines insurer.

* * *

(3) “Domestic insurer” means any insurer that has been chartered by, incorporated, organized, or constituted within or under the laws of this State.

(4) “Domestic risk” means a subject of insurance which that is resident, located, or to be performed in this State.

(5) “Domestic surplus lines insurer” means a domestic insurer with which insurance coverage may be placed under this chapter.

~~(4)~~(6) “To export” means to place surplus lines insurance with a non-admitted insurer.

~~(5)~~(7) “Home state” means, with respect to an insured:

(A)(i) the state in which an insured maintains its principal place of business or, in the case of an individual, the individual’s principal residence; or

(ii) if 100 percent of the insured risk is located outside the state referred to in subdivision (A)(i) of this subsection, the state to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.

(B) If more than one insured from an affiliated group are named insureds on a single non-admitted insurance contract, the term “home state” means the home state, as determined pursuant to subdivision (A) of this subdivision ~~(5)~~(7), of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

~~(6)~~(8) “NAIC” means the National Association of Insurance Commissioners.

~~(7)~~(9) “Surplus lines broker” means an individual licensed under this chapter and chapter 131 of this title.

~~(8)~~(10) “Surplus lines insurance” means coverage not procurable from admitted insurers.

(9)(11) “Surplus lines insurer” means a non-admitted insurer with which insurance coverage may be placed under this chapter.

Sec. 5. 8 V.S.A. § 5023a is added to read:

§ 5023a. DOMESTIC SURPLUS LINES INSURER; AUTHORIZED

(a) Surplus lines insurance may be procured from a domestic surplus lines insurer if all of the following criteria are met:

(1) The board of directors of the insurer has adopted a resolution seeking certification as a domestic surplus lines insurer and the Commissioner has approved such certification.

(2) The insurer is already eligible to offer surplus lines insurance in at least one other state besides Vermont.

(3) The insurer meets the requirements of section 5026 of this title.

(4) All other requirements of this chapter are met.

(b) The requirements of 8 V.S.A. § 80 shall not apply to domestic surplus lines insurers. A domestic surplus lines insurer shall be deemed to be a non-admitted insurer for purposes of chapter 138 of this title.

Sec. 6. 8 V.S.A. § 5024 is amended to read:

§ 5024. CONDITIONS FOR PLACEMENT OF INSURANCE

(a) Insurance coverage, except as described in section 5025 of this chapter, shall not be placed with a ~~non-admitted~~ surplus lines insurer unless the full amount of insurance required is not reasonably procurable from admitted insurers actually transacting that kind and class of insurance in this State; and the amount of insurance exported shall be only the excess over the amount procurable from admitted insurers actually transacting and insuring that kind and class of insurance.

* * *

Sec. 7. 8 V.S.A. § 5026 is amended to read:

§ 5026. SOLVENT INSURERS REQUIRED

(a) Where Vermont is the home state of the insured, surplus lines brokers shall not knowingly place or continue surplus lines insurance with ~~non-admitted~~ surplus lines insurers who are insolvent or unsound financially, and in no event shall any surplus lines broker place any insurance with a non-admitted insurer unless such insurer:

* * *

(b) Notwithstanding the capital and surplus requirements of this section, a ~~non-admitted~~ surplus lines insurer may receive approval upon an affirmative finding of acceptability by the Commissioner. The finding shall be based upon such factors as quality of management, capital, and surplus of any parent company, company underwriting profit and investment-income trends, market availability, and company record and reputation within the industry. In no event, however, shall the Commissioner make an affirmative finding of acceptability when the surplus lines insurer's capital and surplus is less than \$4,500,000.00.

* * *

Sec. 8. 8 V.S.A. § 5027 is amended to read:

§ 5027. EVIDENCE OF THE INSURANCE; CHANGES; PENALTY

(a) Where Vermont is the home state of the insured, the surplus lines broker, upon placing a domestic risk with a surplus lines insurer, either domestic or foreign, shall promptly deliver to the insured the policy issued by the surplus lines insurer, or if such policy is not then available, a certificate, cover note, or other confirmation of insurance, showing the description and location of the subject of the insurance, coverage, conditions and term of the insurance, the premium and rate charged and taxes collected from the insured, and the name and address of the insured and surplus lines insurer. If the risk is assumed by more than one insurer, the document or documents shall state the name and address and proportion of the entire risk assumed by each insurer.

* * *

Sec. 9. 8 V.S.A. § 5028 is amended to read:

§ 5028. INFORMATION REQUIRED ON CONTRACT

Where Vermont is the home state of the insured, each surplus lines broker through whom a surplus lines insurance coverage is procured shall endorse on the outside of the policy and on any confirmation of the insurance, his or her name, address and license number, and the name and address of the producer, if any, through whom the business originated. Where such coverage is placed with an eligible surplus lines insurer there shall be stamped or written conspicuously in no smaller than 10 point boldface type of a contrasting color upon the first page of the policy and the confirmation of insurance if any, "The company issuing this policy ~~has not been licensed by the State of Vermont is a~~ surplus lines insurer and the rates charged have not been approved by the Commissioner of Financial Regulation. Any default on the part of the insurer is not covered by the Vermont Insurance Guaranty Association."

Sec. 10. 8 V.S.A. § 5029 is amended to read:

§ 5029. SURPLUS LINES INSURANCE VALID

(a) Insurance contracts procured as surplus lines insurance from ~~non-~~admitted surplus lines insurers in accordance with this chapter shall be valid and enforceable to the same extent as insurance contracts procured from admitted insurers.

(b) The insurance trade practices provisions of sections 4723 and 4724(1)–(7) and (9)–(18) of this title, and the cancellation provisions of sections 3879–3883 (regarding fire and casualty policies) and 4711–4715 (regarding commercial risk policies) of this title shall apply to surplus lines insurers, both domestic and foreign.

(c) Other provisions of this title not specifically applicable to surplus lines insurers shall not apply.

Sec. 11. 8 V.S.A. § 5030 is amended to read:

§ 5030. LIABILITY OF ~~NON-ADMITTED~~ SURPLUS LINES INSURER
FOR LOSSES AND UNEARNED PREMIUMS

If a ~~non-~~admitted surplus lines insurer has assumed a surplus lines coverage through the intervention of a licensed surplus lines broker of this State, and if the premium for that coverage has been received by that broker, then in all questions thereafter arising under the coverage as between the insurer and the insured, the insurer shall be deemed to have received that premium and the insurer shall be liable to the insured for losses covered by such insurance and for any return premiums due on that insurance to the insured whether or not the broker is indebted to the insurer for such insurance or for any other cause.

Sec. 12. 8 V.S.A. § 5035 is amended to read:

§ 5035. SURPLUS LINES TAX

(a) Where Vermont is the home state of the insured, gross premiums charged, less any return premiums, for surplus lines coverages placed with ~~non-~~admitted surplus lines insurers are subject to a premium receipts tax of three percent, which shall be collected from the insured by the surplus lines broker at the time of delivery of policy or other confirmation of insurance, in addition to the full amount of the gross premium charged by the insurer for the insurance. The tax on any portion of the premium unearned at termination of insurance shall be returned to the policyholder by the surplus lines broker. Nothing contained in this section will preclude a surplus lines broker from charging a fee to the purchaser of the contract sufficient to recover the amount of this tax. ~~Where the insurance covers properties, risks, or exposures located~~

~~or to be performed both in and out of this State, the sum payable shall be computed based on gross premiums charged, less any return premiums, as follows:~~

~~(1) An amount equal to three percent on that portion of the premiums applicable to properties, risks, or exposures located or to be performed in Vermont; plus~~

~~(2) An amount equal to a percentage on that portion of the premiums applicable to properties, risks, or exposures located or to be performed outside Vermont. Such percentage shall be determined based on the laws of the jurisdiction within which the property, risk, or exposure is located or to be performed.~~

* * *

Sec. 13. 8 V.S.A. § 5036 is amended to read:

§ 5036. DIRECT PLACEMENT OF INSURANCE

* * *

~~(b) If any such insurance also covers a subject located or to be performed outside this State, a proper pro rata portion of the entire premium shall be allocated to the subjects of insurance located or to be performed in this State.~~

~~(e) Any insurance with a non-admitted insurer procured through negotiations or by application in whole or in part made within this State, where this State is the home state of the insured, or for which premium in whole or in part is remitted directly or indirectly from within this State, shall be deemed insurance subject to subsection (a) of this section.~~

~~(d)(c) A tax at the rate of three percent of the gross amount of premium, less any return premium, in respect of risks located in this State, shall be levied upon an insured who procures insurance subject to subsection (a) of this section. Before March 1 of the year after the year in which the insurance was procured, continued, or renewed, the insured shall remit to the Commissioner the amount of the tax. The Commissioner before June 1 of each year shall certify and transmit to the Commissioner of Taxes the sums so collected.~~

~~(e)(d) The tax shall be collectible from the insured by civil action brought by the Commissioner.~~

Sec. 14. 8 V.S.A. § 5038 is amended to read:

§ 5038. ACTIONS AGAINST INSURER; SERVICE OF PROCESS

* * *

(b) Each ~~non-admitted~~ surplus lines insurer ~~assuming~~ that assumes a surplus lines coverage shall be deemed thereby to have subjected itself to this chapter.

* * *

* * * HIV-Related Tests * * *

Sec. 15. 8 V.S.A. § 4724 is amended to read:

§ 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR
DECEPTIVE ACTS OR PRACTICES DEFINED

The following are hereby defined as unfair methods of competition or unfair or deceptive acts or practices in the business of insurance:

* * *

(7) Unfair discrimination; arbitrary underwriting action.

* * *

(C)(i) Inquiring or investigating, directly or indirectly as to an applicant's, an insured's or a beneficiary's sexual orientation, or gender identity in an application for insurance coverage, or in an investigation conducted by an insurer, reinsurer, or insurance support organization in connection with an application for such coverage, or using information about gender, marital status, medical history, occupation, residential living arrangements, beneficiaries, zip codes, or other territorial designations to determine sexual orientation or gender identity;

* * *

(iii) Making adverse underwriting decisions because medical records or a report from an insurance support organization reveal that an applicant or insured has demonstrated ~~AIDS-related~~ HIV-related concerns by seeking counseling from health care professionals;

* * *

(20) HIV-related tests. Failing to comply with the provisions of this subdivision regarding HIV-related tests. "HIV-related test" means a test approved by the United States Food and Drug Administration ~~and the Commissioner~~, included in the current Centers for Disease Control and Prevention recommended laboratory HIV testing algorithm for serum or plasma specimens, used to determine the existence of HIV antibodies or antigens in the blood, ~~urine, or oral mucosal transudate (OMT)~~.

* * *

(B)(i) No person shall request or require that an individual submit to an HIV-related test unless he or she has first obtained the individual's written informed consent to the test. Before written, informed consent may be granted, the individual shall be informed, by means of a printed information statement ~~which~~ that shall have been read aloud to the individual by any agent of the insurer at the time of application or later and then given to the individual for review and retention, of the following:

(I) an explanation of the test or tests to be given, including: the tests' relationship to AIDS, the insurer's purpose in seeking the test, potential uses and disclosures of the results, limitations on the accuracy of and the meaning of the test's results, the importance of seeking counseling about the individual's test results after those results are received, and the availability of information from and the telephone numbers of the Vermont Department of Health AIDS hotline and the Centers for Disease Control and Prevention; and

(II) an explanation that the individual is free to consult, at personal expense, with a personal physician or counselor or the State Vermont Department of Health, which shall remain confidential, or to obtain an anonymous test at the individual's choice and personal expense, before deciding whether to consent to testing and that such delay will not affect the status of any application or policy; and

* * *

~~(ii) In addition, before drawing blood or obtaining a sample of the urine or OMT for the HIV-related test or tests, the person doing so shall give the individual to be tested an informed consent form containing the information required by the provisions of this subdivision (B), and shall then obtain the individual's written informed consent. If an OMT test is administered in the presence of the agent or broker, the individual's written informed consent need only be obtained prior to administering the test, in accordance with the provisions of this subdivision (B).~~

(C)(i) The forms for informed consent, information disclosure, and test results disclosure used for HIV-related testing shall be filed with and approved by the Commissioner pursuant to section 3541 of this title; ~~and~~

~~(ii) Any testing procedure shall be filed and approved by the Commissioner in consultation with the Commissioner of Health.~~

~~(D) No laboratory may be used by an insurer or insurance support organization for the processing of HIV-related tests unless it is approved by the Vermont Department of Health. Any requests for approval under this subdivision shall be acted upon within 120 days. The Department may~~

~~approve a laboratory without on-site inspection or additional proficiency data if the laboratory has been certified under the Clinical Laboratory Improvement Act, 42 U.S.C. § 263a or if it meets the requirements of the federal Health Care Financing Administration under the Clinical Laboratory Improvement Amendments.~~

~~(E) The test protocol shall be considered positive only if test results are two positive ELISA tests, and a Western Blot test confirms the results of the two ELISA tests, or upon approval of any equally or more reliable confirmatory test or test protocol which has been approved by the Commissioner and the U.S. Food and Drug Administration. If the result of any test performed on a sample of urine or OMT is positive or indeterminate, the insurer shall provide to the individual, no later than 30 days following the date of the first urine or OMT test results, the opportunity to retest once, and the individual shall have the option to provide either a blood sample, a urine sample, or an OMT sample for that retest. This retest shall be in addition to the opportunities for retest provided in subdivisions (F) and (G) of this subdivision (20).~~

~~(F) If an individual has at least two positive ELISA tests but an indeterminate Western Blot test result, the Western Blot test may be repeated on the same sample. If the Western Blot test result is indeterminate, the insurer may delay action on the application, but no change in preexisting coverage, benefits, or rates under any separate policy or policies held by the individual may be based upon such indeterminacy. If action on an application is delayed due to indeterminacy as described herein, the insurer shall provide the individual the opportunity to retest once after six but not later than eight months following the date of the first indeterminate test result. If the retest Western Blot test result is again indeterminate or is negative, the test result shall be considered as negative, and a new application for coverage shall not be denied by the insurer based upon the results of either test. Any underwriting decision granting a substandard classification or exclusion based on the individual's prior HIV-related test results shall be reversed, and the company performing a retest which had forwarded to a medical information bureau reports based upon the individual's prior HIV-related test results shall request the medical information bureau to remove any abnormal codes listed due to such prior test results.~~

(D) HIV-related tests required by insurers or insurance support organizations must be processed in a laboratory certified under the Clinical Laboratory Improvement Act, 42 U.S.C. § 263a, or that meets the requirements of the federal Health Care Financing Administration under the Clinical Laboratory Improvement Amendments.

(E) The test protocol shall be considered positive only if testing results meet the most current Centers for Disease Control and Prevention recommended laboratory HIV testing algorithm or more reliable confirmatory test or test protocol that has been approved by the United States Food and Drug Administration.

(F) If the HIV-1/2 antibody differentiation test result is indeterminate, the insurer may delay action on the application, but no change in preexisting coverage, benefits, or rates under any separate policy or policies held by the individual shall be based upon such indeterminacy. If the HIV-1 NAT test result is negative, a new application for coverage shall not be denied by the insurer. If the HIV-1 NAT test is invalid, the full testing algorithm shall be repeated. No application for coverage shall be denied based on an indeterminate or invalid result. Any underwriting decision granting a substandard classification or exclusion based on the individual's prior HIV-related test results shall be reversed, and the company performing any previous HIV-related testing that had forwarded to a medical information bureau reports based upon the individual's prior HIV-related test results shall request the medical information bureau to remove any abnormal codes listed due to such prior test results.

(G)(i) Upon the written request of an individual for a retest, an insurer shall retest, at the insurer's expense, any individual who was denied insurance, or offered insurance on any other than a standard basis, because of the positive results of an HIV-related test:

* * *

(II) in any event, upon the approval by the Commissioner of an alternative test or test protocol for the presence of HIV antibodies or antigens updates to the Centers for Disease Control and Prevention recommended laboratory HIV testing algorithm for serum or plasma specimens.

* * *

Sec. 16. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

* * *

(d) Laboratory certification and approval	Annual fee shall be:
Drug laboratory approval	\$500.00
Drug laboratory alternate approval	\$300.00
Drug laboratory approval renewal	\$300.00

HIV laboratory approval	\$300.00
HIV laboratory alternate approval	\$100.00
HIV laboratory approval renewal	\$100.00
HIV laboratory (insurance) approval	\$500.00
HIV laboratory (insurance) alternate approval	\$300.00
HIV laboratory (insurance) approval renewal	\$300.00

* * *

* * * Victim Restitution Fund * * *

Sec. 17. 9 V.S.A. § 5616 is added to read:

§ 5616. VERMONT VICTIM RESTITUTION FUND

(a) Purpose. The purpose of this section is to provide restitution assistance to victims of securities violations who:

(1) were awarded restitution in a final order issued by the Commissioner or were awarded restitution in the final order in a legal action initiated by the Commissioner;

(2) have not received the full amount of restitution ordered before the application for restitution assistance is due; and

(3) demonstrate to the Commissioner's satisfaction that there is no reasonable likelihood that they will receive the full amount of restitution in the future.

(b) Definitions. As used in this section,

(1) "Claimant" means a person who files an application for restitution assistance under this section on behalf of a victim. The claimant and the victim may be the same but do not have to be the same. The term includes the named party in a restitution award in a final order, the executor of a named party in a restitution award in a final order, and the heirs and assigns of a named party in a restitution award in a final order.

(2) "Final order" means a final order issued by the Commissioner or a final order in a legal action initiated by the Commissioner.

(3) "Fund" means the Victim Restitution Special Fund created by this section.

(4) "Securities violation" means a violation of this chapter and any related administrative rules.

(5) “Victim” means a person who was awarded restitution in a final order.

(6) “Vulnerable person” means:

(A) a person who meets the definition of vulnerable person under 33 V.S.A. § 6902(14); or

(B) a person who is at least 60 years of age.

(c) Eligibility.

(1) A natural person who was a resident of Vermont at the time of the alleged fraud is eligible for restitution assistance.

(2) The Commissioner shall not award securities restitution assistance under this section:

(A) to more than one claimant per victim;

(B) unless the person ordered to pay restitution has not paid the full amount of restitution owed to the victim before the application for restitution assistance from the fund is due;

(C) if there was no award of restitution in the final order; or

(D) to a claimant who has not exhausted his or her appeal rights.

(d) Denial of Assistance. The Commissioner shall not award restitution assistance if the victim:

(1) sustained the monetary injury as a result of:

(A) participating or assisting in the securities violation; or

(B) attempting to commit or committing the securities violation;

(2) profited or would have profited from the securities violation; or

(3) is an immediate family member of the person who committed the securities violation.

(e) Application for Restitution Assistance and Maximum Amount of Restitution Assistance Award.

(1) The Commissioner may adopt procedures and forms for application for restitution assistance under this section.

(2) An application must be received by the Department within two years after the deadline for payment of restitution established in the final order.

(3) Except as provided in subdivision (4) of this subsection, the maximum award from the fund for each claimant shall be the lesser of

\$25,000.00 or 25 percent of the amount of unpaid restitution awarded in a final order.

(4) If the claimant is a vulnerable person, the maximum award from the fund shall be the lesser of \$50,000.00 or 50 percent of the amount of unpaid restitution awarded in the final order

(f) Victim Restitution Fund. The Victim Restitution Special Fund, pursuant to 32 V.S.A. chapter 7, subchapter 5, is created to provide funds for the purposes specified in this section. All monies received by the State by reason of grant or donation for use in providing uncompensated victims restitution shall be deposited into the Victim Restitution Special Fund. Interest earned on the fund shall be retained in the Fund.

(g) Award Not Subject to Execution, Attachment, or Garnishment. An award made by the Commissioner under this section is not subject to execution, attachment, garnishment, or other process.

(h) State's Liability for Award. The Commissioner shall have the discretion to suspend applications and awards based on the solvency of the fund. The State shall not be liable for any determination made under this section.

(i) Subrogation of Rights of State.

(1) The State is subrogated to the rights of the person awarded restitution under this chapter to the extent of the award.

(2) The subrogation rights are against the person who committed the securities violation or a person liable for the pecuniary loss.

(j) Rulemaking Authority. The Commissioner may adopt rules to implement this section.

(k) Bulletin. The Commissioner shall publish a bulletin defining the term "immediate family member" for purposes of this section

* * * New England Equity Crowdfunding * * *

Sec. 18. 9 V.S.A. § 5305 is amended to read:

§ 5305. SECURITIES REGISTRATION FILINGS

* * *

(b) A person filing a registration statement shall pay a filing fee of \$600.00. A person filing a registration statement in connection with the New England Crowdfunding Initiative shall be exempt from the filing fee requirement. Open-end investment companies shall pay a registration fee and

an annual renewal fee for each portfolio as long as the registration of those securities remains in effect. If a registration statement is withdrawn before the effective date or a preeffective stop order is issued under section 5306 of this title, the Commissioner shall retain the fee.

* * *

* * * Surplus Lines Insurance Compact; Repeal * * *

Sec. 19. REPEAL

8 V.S.A. chapter 138A (Surplus Lines Insurance Multi-state Compliance Compact) is repealed.

* * * Insurance Producers; Licensing Requirements; Definitions * * *

Sec. 20. 8 V.S.A. § 4791 is amended to read:

§ 4791. DEFINITIONS

As used in this chapter:

* * *

(3) “Adjuster” means any person who investigates claims ~~and~~ or negotiates settlement of claims arising under policies of insurance in behalf of insurers under such policies, or who advertises or solicits business from insurers as an adjuster. Lawyers settling claims of clients shall not be considered an adjuster. A license as an adjuster shall not be required of an official or employee of a domestic fire or casualty insurance company or of a duly licensed resident insurance producer of a domestic or duly licensed foreign insurer who is authorized by such insurer to appraise losses under policies issued by such insurer.

(4) “Public adjuster” means any person who investigates claims ~~and~~ or negotiates settlement of claims arising under policies of insurance in behalf of the insured under such policies or who advertises or solicits business as such adjuster. Lawyers settling claims of clients shall not be deemed to be insurance public adjusters.

* * *

* * * Fair Credit Reporting; Definition of Credit Report * * *

Sec. 21. 9 V.S.A. § 2480a(3) is amended to read:

(3) “Credit report” means ~~a consumer report, as defined in 15 U.S.C. § 1681a, that is used or collected in whole or in part for the purpose of serving as a factor in establishing a consumer’s eligibility for credit for personal, family, or household purposes~~ any written, oral, or other communication of

any information by a credit reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, including an investigative credit report. The term does not include:

(A) a report containing information solely as to transactions or experiences between the consumer and the person making the report; or

(B) an authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device.

* * * Effective Date * * *

Sec. 22. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee vote: 10-0-1)

(For text see Senate Journal April 3, 2019)

Rep. Beck of St. Johnsbury, for the Committee on Ways and Means, recommends the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Commerce and Economic Development and when further amended as follows:

First: In Sec. 1, 8 V.S.A. § 15a, by striking out subsection (n) in its entirety and inserting in lieu thereof a new subsection (n) to read as follows:

(n) Biannually, beginning on January 15, 2020, the Commissioner shall submit a report to the General Assembly providing the following information:

(1) the total number of petitions for waivers that have been received, granted, and denied by the Commissioner;

(2) for each waiver granted by the Commissioner, the information specified under subsection (f) of this section;

(3) a list of any regulations or bulletins that have been adopted or amended as a result of or in connection with a waiver granted under this section;

(4) with respect to each statute to which a waiver applies, the Commissioner's recommendation as to whether such statute should be continued, eliminated, or amended in order to promote innovation and establish a uniform regulatory system for all regulated entities; and

(5) a list of any waivers that have lapsed or been revoked and, if revoked, a description of other regulatory or disciplinary actions, if any, that resulted in, accompanied, or resulted from such revocation.

Second: By striking out Sec. 8, 8 V.S.A. § 5027, in its entirety and inserting in lieu thereof a new Sec. 8 to read as follows:

Sec. 8. [Deleted.]

Third: By striking out Sec. 16, 18 V.S.A. § 501b, in its entirety and inserting in lieu thereof a new Sec. 16 to read as follows:

Sec. 16. 18 V.S.A. § 501b is amended to read:

§ 501b. CERTIFICATION OF LABORATORIES

* * *

(d) Laboratory certification and approval	Annual fee shall be:
Drug laboratory approval	\$500.00
Drug laboratory alternate approval	\$300.00
Drug laboratory approval renewal	\$300.00
HIV laboratory approval	\$300.00
HIV laboratory alternate approval	\$100.00
HIV laboratory approval renewal	\$100.00
HIV laboratory (insurance) approval	\$500.00
HIV laboratory (insurance) alternate approval	\$300.00
HIV laboratory (insurance) approval renewal	\$300.00

* * *

Fourth: In Sec. 17, 9 V.S.A. § 5616, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) Victim Restitution Fund. The Victim Restitution Special Fund, pursuant to 32 V.S.A. chapter 7, subchapter 5, is created to provide funds for the purposes specified in this section. All monies received by the State by reason of grant or donation for use in providing uncompensated victims restitution shall be deposited into the Victim Restitution Special Fund. The Department may direct a party to deposit a sum not to exceed 15 percent of the total settlement amount into the Fund in conjunction with settling a State securities law enforcement matter. Interest earned on the fund shall be retained in the Fund.

(Committee Vote: 10-0-1)

Rep. Hooper of Montpelier, for the Committee on Appropriations, recommends the bill ought to pass in concurrence with proposal of amendment

as recommended by the Committee on Commerce and Economic Development and Ways and Means.

(Committee Vote: 10-0-1)

Senate Proposal of Amendment

H. 132

An act relating to adopting protections against housing discrimination for victims of domestic and sexual violence

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

* * * Housing Discrimination; Domestic and Sexual Violence * * *

Sec. 1. REDESIGNATION

(a) 9 V.S.A. chapter 138 (campgrounds) is redesignated as 9 V.S.A. chapter 136.

(b) 9 V.S.A. § 4470 (campgrounds; removal) is redesignated as 9 V.S.A. § 4410.

Sec. 2. 9 V.S.A. chapter 137 is amended to read:

CHAPTER 137. RESIDENTIAL RENTAL AGREEMENTS

Subchapter 1. General

§ 4451. DEFINITIONS

* * *

Subchapter 2. Residential Rental Agreements

§ 4455. TENANT OBLIGATIONS; PAYMENT OF RENT

* * *

Subchapter 3. Farm Employee Housing

§ 4469. [Reserved.]

§ 4469a. TERMINATION OF OCCUPANCY OF FARM EMPLOYEE HOUSING

* * *

Subchapter 4. Housing Discrimination; Domestic and Sexual Violence

§ 4471. DEFINITIONS

As used in this subchapter:

(1) “Abuse” has the same meaning as in 15 V.S.A. § 1101.

(2) “Protected tenant” means a tenant who is:

(A) a victim of abuse, sexual assault, or stalking;

(B) a parent, foster parent, legal guardian, or caretaker with at least partial physical custody of a victim of abuse, sexual assault, or stalking.

(3) “Sexual assault” and “stalking” have the same meaning as in 12 V.S.A. § 5131.

§ 4472. RIGHT TO TERMINATE RENTAL AGREEMENT

(a) Notwithstanding a contrary provision of a rental agreement or of subchapter 2 of this chapter, a protected tenant may terminate a rental agreement pursuant to subsection (b) of this section without penalty or liability if he or she reasonably believes it is necessary to vacate a dwelling unit:

(1) based on a fear of imminent harm to any protected tenant due to abuse, sexual assault, or stalking; or

(2) if any protected tenant was a victim of sexual assault that occurred on the premises within the six months preceding the date of his or her notice of termination.

(b) Not less than 30 days before the date of termination, the protected tenant shall provide to the landlord:

(1) a written notice of termination; and

(2) documentation from one or more of the following sources supporting his or her reasonable belief that it is necessary to vacate the dwelling unit:

(A) a court, law enforcement, or other government agency;

(B) an abuse, sexual assault, or stalking assistance program;

(C) a legal, clerical, medical, or other professional from whom the tenant, or the minor or dependent of the tenant, received counseling or other assistance concerning abuse, sexual assault, or stalking; or

(D) a self-certification of a protected tenant’s status as a victim of abuse, sexual assault, or stalking, signed under penalty of perjury, on a standard form adopted for that purpose by:

(i) a federal or State government entity, including the federal Department of Housing and Urban Development or the Vermont Department for Children and Families; or

(ii) a nonprofit organization that provides support services to protected tenants.

(c) A notice of termination provided pursuant to subsection (b) of this section may be revoked and the rental agreement shall remain in effect if:

(1)(A) the protected tenant provides a written notice to the landlord revoking the notice of termination; and

(B) the landlord has not entered into a rental agreement with another tenant prior to the date of the revocation; or

(2)(A) the protected tenant has not vacated the premises as of the date of termination; and

(B) the landlord has not entered into a rental agreement with another tenant prior to the date of termination.

§ 4473. RIGHT TO CHANGE LOCKS; OTHER SECURITY MEASURES

Notwithstanding any contrary provision of a rental agreement or of subchapter 2 of this chapter:

(1) Subject to subdivision (2) of this subsection, a protected tenant may request that a landlord change the locks of a dwelling unit within 48 hours following the request:

(A) based on a fear of imminent harm to any protected tenant due to abuse, sexual assault, or stalking; or

(B) if any protected tenant was a victim of sexual assault that occurred on the premises within the six months preceding the date of his or her request.

(2) If the perpetrator of abuse, sexual assault, or stalking is also a tenant in the dwelling unit, the protected tenant shall include with his or her request a copy of a court order that requires the perpetrator to leave the premises.

(3) If the landlord changes the locks as requested, the landlord shall provide a key to the new locks to each tenant of the dwelling unit, not including the perpetrator of the abuse, sexual assault, or stalking who is subject to a court order to leave the premises.

(4) If the landlord does not change the locks as requested, the protected tenant may change the locks without the landlord's prior knowledge or permission, provided that the protected tenant shall:

(A) ensure that the new locks, and the quality of the installation, equal or exceed the quality of the original;

(B) notify the landlord of the change within 24 hours of installation;
and

(C) provide the landlord with a key to the new locks.

(5) Unless otherwise agreed to by the parties, a protected tenant is responsible for the costs of installation of new locks pursuant to this section.

(6)(A) A protected tenant may request permission of a landlord to install additional security measures on the premises, including a security system or security camera.

(B) A protected tenant:

(i) shall submit his or her request not less than seven days prior to installation;

(ii) shall ensure the quality and safety of the security measures and of their installation;

(iii) is responsible for the costs of installation and operation of the security measures; and

(iv) is liable for damages resulting from installation.

(C) A landlord shall not unreasonably refuse a protected tenant's request to install additional security measures pursuant to this subdivision (6).

§ 4474. CONFIDENTIALITY

An owner, landlord, or housing subsidy provider who possesses documentation or information concerning a protected tenant's status as a victim of abuse, sexual assault, or stalking shall keep the documentation or information confidential and shall not allow or provide access to another person unless:

(1) authorized by the protected tenant;

(2) required by a court order, government regulation, or governmental audit requirement; or

(3) required as evidence in a court proceeding, provided:

(A) the documentation or information remains under seal; and

(B) use of the documentation or information is limited to a claim brought pursuant to section 4472 or 4473 of this title.

§ 4475. LIMITATION OF LIABILITY; ENFORCEMENT

Except in the case of gross negligence or willful misconduct, a landlord is immune from liability for damages to a protected tenant if he or she acts in

good faith reliance on:

(1) the provisions of this subchapter; or

(2) information provided or action taken by a protected tenant pursuant to the provisions of this subchapter.

Sec. 3. PROTECTED TENANT SELF-CERTIFICATION; FORM

(a) The Vermont Network Against Domestic and Sexual Violence, in collaboration with the Vermont Apartment Owners Association and other interested parties, shall:

(1) develop and make available a standard self-certification form for use by protected tenants pursuant to 9 V.S.A. § 4472(b);

(2) provide the self-certification form to the Department for Children and Families, once developed; and

(3) provide a status report regarding the form, its availability, and its use to the Senate Committee on Economic Development, Housing and General Affairs and to the House Committee on General, Housing, and Military Affairs on or before January 15, 2020.

Sec. 4. 9 V.S.A. chapter 139 is amended to read:

CHAPTER 139. DISCRIMINATION; PUBLIC ACCOMMODATIONS; RENTAL AND SALE OF REAL ESTATE

* * *

§ 4501. DEFINITIONS

As used in this chapter:

* * *

(11) “Abuse,” “sexual assault,” and “stalking” have the same meaning as in section 4471 of this title.

* * *

§ 4503. UNFAIR HOUSING PRACTICES

(a) It shall be unlawful for any person:

(1) To refuse to sell or rent, or refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling or other real estate to any person because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, or because a

person is a victim of abuse, sexual assault, or stalking.

(2) To discriminate against, or to harass any person in the terms, conditions, ~~or~~ privileges, and protections of the sale or rental of a dwelling or other real estate, or in the provision of services or facilities in connection therewith, because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, or because a person is a victim of abuse, sexual assault, or stalking.

(3) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling or other real estate that indicates any preference, limitation, or discrimination based on race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, or because a person is a victim of abuse, sexual assault, or stalking.

(4) To represent to any person because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, or because a person is a victim of abuse, sexual assault, or stalking, that any dwelling or other real estate is not available for inspection, sale, or rental when the dwelling or real estate is in fact so available.

(5) To disclose to another person information regarding or relating to the status of a tenant or occupant as a victim of abuse, sexual assault, or stalking for the purpose or intent of:

(A) harassing or intimidating the tenant or occupant;

(B) retaliating against a tenant or occupant for exercising his or her rights;

(C) influencing or coercing a tenant or occupant to vacate the dwelling; or

(D) recovering possession of the dwelling.

(6) To discriminate against any person in the making or purchasing of loans or providing other financial assistance for real-estate-related transactions or in the selling, brokering, or appraising of residential real property, because of the race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a

person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, or because a person is a victim of abuse, sexual assault, or stalking.

(7) To engage in blockbusting practices, for profit, which may include inducing or attempting to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of a person or persons of a particular race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a person intends to occupy a dwelling with one or more minor children, or because a person is a recipient of public assistance, or because a person is a victim of abuse, sexual assault, or stalking.

(8) To deny any person access to or membership or participation in any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against any person in the terms or conditions of such access, membership, or participation, on account of race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, or disability of a person, or because a person is a recipient of public assistance, or because a person is a victim of abuse, sexual assault, or stalking.

* * *

(12) To discriminate in land use decisions or in the permitting of housing because of race, sex, sexual orientation, gender identity, age, marital status, religious creed, color, national origin, disability, the presence of one or more minor children, income, or because of the receipt of public assistance, or because a person is a victim of abuse, sexual assault, or stalking, except as otherwise provided by law.

* * *

* * * Housing Health and Safety; Rental Housing
Health Code Enforcement * * *

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

§ 5. DUTIES OF DEPARTMENT OF HEALTH

The Department of Health shall:

(1) Conduct studies, develop State plans, and administer programs and State plans for hospital survey and construction, hospital operation and maintenance, medical care, and treatment of substance abuse.

(2) Provide methods of administration and such other action as may be necessary to comply with the requirements of federal acts and regulations as

relate to studies, development of plans and administration of programs in the fields of health, public health, health education, hospital construction and maintenance, and medical care.

(3) Appoint advisory councils, with the approval of the Governor.

(4) Cooperate with necessary federal agencies in securing federal funds ~~which~~ that become available to the State for all prevention, public health, wellness, and medical programs.

(5) Seek accreditation through the Public Health Accreditation Board.

(6) Create a State Health Improvement Plan and facilitate local health improvement plans in order to encourage the design of healthy communities and to promote policy initiatives that contribute to community, school, and workplace wellness, which may include providing assistance to employers for wellness program grants, encouraging employers to promote employee engagement in healthy behaviors, and encouraging the appropriate use of the health care system.

(7) Serve as the leader on State rental housing health laws.

(8) Provide policy assistance, technical support, and legal guidance to municipalities concerning the interpretation, implementation, and enforcement of State rental housing health and safety laws.

Sec. 6. 18 V.S.A. § 603 is amended to read:

§ 603. RENTAL HOUSING SAFETY; INSPECTION REPORTS

(a)(1) When conducting an investigation of rental housing, a local health officer shall issue a written inspection report on the rental property using the protocols for implementing the Rental Housing Health Code of the Department or the municipality, in the case of a municipality that has established a code enforcement office.

(2) A written inspection report shall:

(A) contain findings of fact that serve as the basis of one or more violations;

(B) specify the requirements and timelines necessary to correct a violation;

(C) provide notice that the landlord is prohibited from renting the affected unit to a new tenant until the violation is corrected; and

(D) provide notice in plain language that the landlord and agents of the landlord must have access to the rental unit to make repairs as ordered by

the health officer consistent with the access provisions in 9 V.S.A. § 4460.

(3) A local health officer shall:

(A) provide a copy of the inspection report to the landlord and any tenants affected by a violation by delivering the report electronically, in person, by first class mail, or by leaving a copy at each unit affected by the deficiency; and

(B) provide information on each inspection to the Department within seven days of issuing the report using an electronic system designed for that purpose.

(4) If an entire property is affected by a violation, the local health officer shall post a copy of the inspection report in a common area of the property and include a prominent notice that the report shall not be removed until authorized by the local health officer.

(5) A municipality shall make an inspection report available as a public record.

(b)(1) A local health officer may impose a ~~fine~~ civil penalty of not more than \$100.00 \$200.00 per day for each violation that is not corrected by the date provided in the written inspection report, or when a unit is re-rented to a new tenant prior to the correction of a violation.

(2)(A) If the cumulative amount of penalties imposed pursuant to this subsection is \$800.00 or less, the local health officer, Department of Health, or State's Attorney may bring a civil enforcement action in the Judicial Bureau pursuant to 4 V.S.A. chapter 29.

(B) The waiver penalty for a violation in an action brought pursuant to this subsection is 50 percent of the full penalty amount.

(3) If the cumulative amount of penalties imposed pursuant to this subsection is more than \$800.00, or if injunctive relief is sought, the local health officer, Department of Health, or State's Attorney shall commence an action in the Civil Division of the Superior Court for the county in which a violation occurred.

(c) If a local health officer fails to conduct an investigation pursuant to section 602a of this title or fails to issue an inspection report pursuant to this section, a landlord or tenant may request that the Department, at its discretion, conduct an investigation or contact the local board of health to take action.

Sec. 7. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) The Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(21) Violations of State or municipal rental housing health and safety laws when the amount of the cumulative penalties imposed pursuant to 18 V.S.A. § 603 is \$800.00 or less.

* * *

(c) The Judicial Bureau shall not have jurisdiction over municipal parking violations.

(d) Three hearing officers appointed by the Court Administrator shall determine waiver penalties to be imposed for violations within the Judicial Bureau's jurisdiction, except:

~~(1) Municipalities~~ municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

Sec. 8. RENTAL HOUSING HEALTH AND SAFETY ENFORCEMENT SYSTEM; RECOMMENDATIONS; REPORT

(a) On or before January 15, 2020, in collaboration with the Rental Housing Advisory Board, the Department of Health and the Department of Public Safety shall develop recommendations for the design and implementation of a comprehensive system for the professional enforcement of State rental housing health and safety laws, which shall include:

(1) an outline of options, including an option for a State government-run system, with a timeline and budget for each;

(2) a needs assessment outlining the demand for inspections based on inspection information collected through the electronic system created pursuant to Sec. 6 of this act, summary information for fiscal year 2019 inspection reports provided pursuant to subsection (c) of this section, summary information from municipalities with self-governed rental housing health code programs, and other stakeholders and relevant sources; and

(3) any additional recommendations from the Rental Housing Advisory Board, the Department of Public Safety, the Department of Housing and Community Development, or other executive branch agencies.

(b) On or before September 30, 2019, the Department of Health shall

provide an interim progress report to the Senate Committee on Economic Development, Housing and General Affairs and the House Committee on General, Housing, and Military Affairs.

(c) On or before August 1, 2019, each municipality in this State shall provide to the Department of Health summary information on its inspection activity from July 1, 2018 through June 30, 2019 in order to assist the Department in completing the needs assessment pursuant to subdivision (a)(2) of this section.

* * * Affordable Housing * * *

Sec. 9. STATE TREASURER RECOMMENDATION FOR FINANCING
OF AFFORDABLE HOUSING INITIATIVE

(a) Evaluation. On or before January 15, 2020, the State Treasurer shall evaluate options for financing affordable housing in the State. The evaluation shall include:

(1) a plan, formed in consultation with interested stakeholders, for the creation of 1,000 housing units over five years for Vermonters with incomes up to 120 percent of the area median income as determined by the U.S. Department of Housing and Urban Development;

(2) alternatives for financing the plan that take into consideration the use of appropriations, general obligation bonds, revenue bonds, investments, new revenues, and other financing mechanisms, including initiatives undertaken by other states;

(3) an assumption that the 1,000 units shall be in addition to what would otherwise have been produced through projected base appropriations available to the Vermont Housing and Conservation Board over five years commencing with FY 2021; and

(4) provision for meeting housing needs in the following areas:

(A) creating new multifamily and single-family homes;

(B) addressing blighted properties and other existing housing stock requiring reinvestment, including in mobile home parks; and

(C) providing service-supported housing in coordination with the Agency of Human Services, including for those who are elderly, homeless, in recovery, experiencing severe mental illness, or leaving incarceration.

(b) Cooperation. In conducting the evaluation described in subsection (a) of this section, the State Treasurer shall have the cooperation of the Agency on Commerce and Community Development and the Department of Taxes.

(c) Report. The State Treasurer shall submit a report with recommendations based on the evaluation described in subsection (a) of this section to the Senate Committees on Economic Development, Housing and General Affairs, on Appropriations, and on Finance and the House Committees on General, Housing, and Military Affairs, on Appropriations, and on Ways and Means. The report shall also include a legislative proposal to implement the recommendations proposed in the report.

* * * Effective Date * * *

Sec. 10. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(For text see House Journal March 20, 2019)

H. 514

An act relating to miscellaneous tax provisions

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

First: By striking out Sec. 10 in its entirety and inserting in lieu thereof a new Sec 10 to read as follows:

Sec. 10. 32 V.S.A. § 9202(10)(D)(iii) is added to read:

(iii) Food or beverage purchased for resale, provided that at the time of sale the purchaser provides the seller an exemption certificate in a form approved by the Commissioner. However, when the food or beverage purchased for resale is subsequently resold, the subsequent purchase does not come within this exemption unless the subsequent purchase is also for resale and an exemption certificate is provided.

Second: By inserting a Sec. 12a to read as follows:

Sec. 12a. TAX DATA ANALYSIS

(a) The Department of Taxes, with the cooperation of other executive agencies, shall analyze how existing federal and State tax data could be used to identify opportunities for State executive agencies to maximize the eligibility of Vermonters for federal and State programs. For each opportunity, the Department shall identify:

(1) how existing tax data could be used to streamline eligibility criteria and application processes;

(2) any current restrictions on the use of federal and State tax data in the context of the opportunity; and

(3) any changes to current law or to current data practices that would be required to maximize the benefit to the Vermont beneficiary while ensuring taxpayer confidentiality.

(b) The Department of Taxes shall submit its analysis in the form of a report to the Senate Committee on Finance and the House Committee on Ways and Means no later than December 1, 2019.

Third: In Sec. 17 after the section heading “REPORT ON NONPOSTSECONDARY USE OF HIGHER EDUCATION INVESTMENT PLAN FUNDS” by striking out the word “The” and inserting in lieu thereof the following: As far as practicable, the

Fourth: By inserting a Sec. 17a to read as follows:

Sec. 17a. REPEAL

Sec. 17 (report) of this act shall be repealed on July 1, 2021.

Fifth: In Sec. 20, 32 V.S.A. § 6061(4)(B)(i), after “former spouse of the claimant,” by inserting the following: for any period that the spouse or former spouse is not a member of the household.

Sixth: In Sec. 32, land use change tax, in subsection (a), by striking out the following: “In the instance where a parcel is withdrawn and value established, and then a portion of the withdrawn parcel is developed, the land use change tax on the entire originally withdrawn parcel is due.”

Seventh: By inserting a Sec. 32a to read as follows:

Sec. 32a. LAND USE CHANGE TAX

No later than October 15, 2019, the Department of Taxes shall make recommendations to the Current Use Advisory Board for rulemaking to address the application of the land use change tax when land is withdrawn from current use and subsequently only a portion of the land is developed.

Eighth: By inserting a Sec. 36b to read as follows:

Sec. 36b. 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.

* * *

(3) Agriculture feeds, seed, plants, baler twine, silage bags, agricultural wrap, sheets of plastic for bunker covers, liming materials, breeding and other

livestock, semen breeding fees, baby chicks, turkey poults, agriculture chemicals other than pesticides, ~~veterinary supplies~~, and bedding; and fertilizers and pesticides for use and consumption directly in the production for sale of tangible personal property on farms, including stock, dairy, poultry, fruit and truck farms, orchards, nurseries, or in greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities for sale.

* * *

(53) Prescription drugs intended for animal use, and durable medical equipment and prosthetics intended for animal use, and veterinary supplies intended for animal use. As used in this subdivision, “prescription drugs intended for animal use” means a drug dispensed only by or upon the lawful written order of a licensed veterinarian, and “veterinary supplies” mean tangible personal property therapeutic in nature, not normally used absent illness or injury, and not intended for repeated usage.

Ninth: In Sec. 38, effective dates, in subdivision (3), by striking out “and” and inserting in lieu thereof 2, and after “36a (automotive parts)” by inserting and 36b (veterinary supplies)

(For text see House Journal March 15, 2019)

Amendment to be offered by the Committee on Ways and Means to H. 514

The Committee on Ways and Means moves that the House concur in the Senate Proposal of Amendment with a further amendment as follows:

First: by inserting a Sec. 7a and 7b to read as follows:

Sec. 7a. 32 V.S.A. § 5833 is amended to read:

§ 5833. ALLOCATION AND APPORTIONMENT OF INCOME

(a) If the income of a taxable corporation is derived from any trade, business, or activity conducted entirely within this State, the Vermont net income of the corporation shall be allocated to this State in full. If the income of a taxable corporation is derived from any trade, business, or activity conducted both within and outside this State, the amount of the corporation’s Vermont net income ~~which~~ that shall be apportioned to this State, so as to allocate to this State a fair and equitable portion of that income, shall be determined by multiplying that Vermont net income by the arithmetic average of the following factors, with the sales factor described in subdivision (3) of this subsection double-weighted:

(1) The average of the value of all the real and tangible property within this State (A) at the beginning of the taxable year and (B) at the end of the taxable year (but the Commissioner may require the use of the average of such value on the 15th or other day of each month, in cases where he or she determines that such computation is necessary to more accurately reflect the average value of property within Vermont during the taxable year), expressed as a percentage of all such property both within and outside this State;

(2) The total wages, salaries, and other personal service compensation paid during the taxable year to employees within this State, expressed as a percentage of all such compensation paid whether within or outside this State;

(3) The gross sales, or charges for services performed, within this State, expressed as a percentage of such sales or charges whether within or outside this State.

(A) Sales of tangible personal property are made in this State if:

(i) the property is delivered or shipped to a purchaser, other than the ~~United States~~ U.S. government, who takes possession within this State, regardless of f.o.b. point or other conditions of sale; or

(ii) the property is shipped from an office, store, warehouse, factory, or other place of storage in this State; and

~~(A)(I)~~ the purchaser is the ~~United States~~ U.S. government; or

~~(B)(II)~~ the corporation is not taxable in the State in which the purchaser takes possession. ~~Sales other than sales of tangible personal property are in this State if the income producing activity is performed in this State or the income producing activity is performed both in and outside this State and a greater proportion of the income producing activity is performed in this State than in any other state, based on costs of performance.~~

(B) Sales, other than the sale of tangible personal property, are in this State if the taxpayer's market for the sales is in this State. The taxpayer's market for sales is in this State:

(i) in the case of sale, rental, lease, or license of real property, if and to the extent the property is located in this State;

(ii) in the case of rental, lease, or license of tangible personal property, if and to the extent the property is located in this State;

(iii) in the case of sale of a service, if and to the extent the service is delivered to a location in this State; and

(iv) in the case of intangible property:

(I) that is rented, leased, or licensed, if and to the extent the property is used in this State, provided that intangible property utilized in marketing a good or service to a consumer is “used in this State” if that good or service is purchased by a consumer who is in this State; and

(II) that is sold, if and to the extent the property is used in this State, provided that:

(aa) a contract right, government license, or similar intangible property that authorizes the holder to conduct a business activity in a specific geographic area is “used in this State” if the geographic area includes all or part of this State;

(bb) receipts from intangible property sales that are contingent on the productivity, use, or disposition of the intangible property shall be treated as receipts from the rental, lease, or licensing of such intangible property under subdivision (iv)(I) of this subdivision (B); and

(cc) all other receipts from a sale of intangible property shall be excluded from the numerator and denominator of the receipts factor.

(C) If the state or states of assignment under subdivision (B) of this subsection cannot be determined, the state or states of assignment shall be reasonably approximated.

(D) If the taxpayer is not taxable in a state to which a receipt is assigned under subdivision (B) or (C) of this subsection, or if the state of assignment cannot be determined under subdivision (B) of this subsection or reasonably approximated under subdivision (C) of this subsection, such receipt shall be excluded from the denominator of the receipts factor.

(E) The Commissioner of Taxes shall adopt regulations as necessary to carry out the purposes of this section.

(b) If the application of the provisions of this section does not fairly represent the extent of the business activities of a corporation within this State, the corporation may petition for, or the Commissioner may require, with respect to all or any part of the corporation’s business activity, if reasonable:

(1) ~~Separate~~ separate accounting;

(2) ~~The~~ the exclusion or modification of any or all of the factors;

(3) ~~The~~ the inclusion of one or more additional factors ~~which~~ that will fairly represent the corporation’s business activity in this State; or

(4) the employment of any other method to effectuate an equitable allocation and apportionment of the corporation’s income.

Sec. 7b. REPORT

As part of the General Assembly's continuing effort to modernize Vermont's corporate income tax code and to foster economic development in the State, the Department of Taxes, with the assistance of the Joint Fiscal Office and the Office of Legislative Council, shall provide the General Assembly with a report, not later than December 15, 2019, analyzing the following issues related to Vermont's corporate income tax. The report shall:

(1) identify and analyze any fiscal, legal, distributional, and administrative issues related to moving Vermont from its current apportionment formula under 32 V.S.A. § 5833 to a single sales factor;

(2) evaluate the impact of the current exclusion of overseas business organizations from an affiliated group, and identify and analyze any fiscal, legal, distributional, and administrative issues related to eliminating that exclusion;

(3) in consultation with the Vermont Banker's Association, compare the impact of the current bank franchise tax to the impact of a taxing regime where there is no bank franchise tax, and financial institutions pay the Vermont corporate tax based on Vermont's current apportionment factors with the market-based sourcing changes made in this act; and

(4) examine alternatives to Vermont's corporate income tax which could more accurately capture corporate economic activity within Vermont, focusing particularly on corporations who conduct business in the State, but who have little or no taxable income.

Second: In Sec. 17a (repeal) by striking out "2021" and inserting "2022"

Third: By striking out Secs. 32 (land use change tax) and 32a (rulemaking) in their entireties and inserting in lieu thereof the following:

Sec. 32. [Deleted.]

Sec. 32a. [Deleted.]

Fourth: By striking out Sec. 36b (veterinary supplies) in its entirety and inserting in lieu thereof the following:

Sec. 36b. 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.

* * *

(3) Agriculture feeds, seed, plants, baler twine, silage bags, agricultural wrap, sheets of plastic for bunker covers, liming materials, breeding and other livestock, semen breeding fees, baby chicks, turkey poults, agriculture chemicals other than pesticides, ~~veterinary supplies~~, and bedding; and fertilizers and pesticides for use and consumption directly in the production for sale of tangible personal property on farms, including stock, dairy, poultry, fruit and truck farms, orchards, nurseries, or in greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities for sale.

* * *

(53) Prescription drugs intended for animal use, and durable medical equipment, prosthetics and veterinary supplies intended for agricultural use. As used in this subdivision, “prescription drugs intended for animal use” means a drug dispensed only by or upon the lawful written order of a licensed veterinarian, and “veterinary supplies” mean tangible personal property therapeutic in nature, not normally used absent illness or injury, and not intended for repeated usage.

Fifth: In Sec. 37 (repeals), by striking out subdivision (1) in its entirety and renumbering the remaining subdivisions to be numerically correct.

Sixth: In Sec. 38 (effective dates) by adding a subdivision (5) to read:

(5) Sec. 7a (market-based sourcing) shall take effect on January 1, 2020, and apply to tax years starting after that date.

H. 528

An act relating to the Rural Health Services Task Force

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

Sec. 1. RURAL HEALTH SERVICES TASK FORCE; REPORT

(a) Creation. There is created the Rural Health Services Task Force to evaluate the current state of rural health care in Vermont and identify ways to sustain the system and to ensure it provides access to affordable, high-quality health care services.

(b) Membership. The Rural Health Services Task Force shall be composed of the following members:

- (1) the Secretary of Human Services or designee;
- (2) the Chair of the Green Mountain Care Board or designee;
- (3) the Chief of the Office of Rural Health and Primary Care in the Department of Health or designee;
- (4) the Chief Health Care Advocate from the Office of the Health Care Advocate or designee;
- (5) two representatives of rural Vermont hospitals, selected by the Vermont Association of Hospitals and Health Systems, who shall represent hospitals that are located in different regions of the State and that face different levels of financial stability;
- (6) one representative of Vermont's federally qualified health centers, who shall be a Vermont-licensed health care professional, selected by Bi-State Primary Care Association;
- (7) one Vermont-licensed physician from an independent practice located in a rural Vermont setting, selected jointly by the Vermont Medical Society and HealthFirst;
- (8) one representative of Vermont's free clinic programs, selected by the Vermont Coalition of Clinics for the Uninsured;
- (9) one representative of Vermont's designated and specialized service agencies, selected by Vermont Care Partners;
- (10) one preferred provider from outside the designated and specialized service agency system, selected by the Commissioner of Health;
- (11) one Vermont-licensed mental health professional from an independent practice located in a rural Vermont setting, selected by the Commissioner of Mental Health;
- (12) one representative of Vermont's home health agencies, selected jointly by the VNAs of Vermont and Bayada Home Health Care; and
- (13) one representative of long-term care facilities, selected by the Vermont Health Care Association.

(c) Powers and duties. The Rural Health Services Task Force, in consultation with Vermont-certified accountable care organizations and other interested stakeholders, shall consider issues relating to rural health care delivery in Vermont, including:

- (1) the current system of rural health care delivery in Vermont, including the role of rural hospitals in the health care continuum;

(2) how to ensure the sustainability of the rural health care system, including identifying the major financial, administrative, and workforce barriers;

(3) ways to overcome any existing barriers to the sustainability of the rural health care system, including prospective ideas for the future of access to health care services in rural Vermont across the health care continuum;

(4) ways to encourage and improve care coordination among institutional and community service providers; and

(5) the potential consequences of the failure of one or more rural Vermont hospitals.

(d) Assistance. The Rural Health Services Task Force shall have the administrative, technical, and legal assistance of the Agency of Human Services and the Green Mountain Care Board.

(e) Findings and recommendations. On or before January 15, 2020, the Rural Health Services Task Force shall present its findings and recommendations, including any recommendations for legislative action, to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare.

(f) Meetings.

(1) The Chair of the Green Mountain Care Board or designee shall call the first meeting of the Rural Health Services Task Force to occur on or before July 1, 2019.

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

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

(4) The Task Force shall cease to exist following the presentation of its findings and recommendations or on January 15, 2020, whichever occurs first.

Sec. 2. REPORT; ANALYSIS OF RESIDENTIAL MENTAL HEALTH NEEDS

(a) The Department of Mental Health shall evaluate and determine the mental health bed needs for residential programs across the State by geographic area and provider type, including long-term residences (group homes), intensive residential recovery facilities, and secure residential recovery facilities. This evaluation shall include a review of needs in rural locations, current and historic occupancy rates, an analysis of admission and

referral data, and an assessment of barriers to access for individuals requiring residential services. The evaluation shall include consultation with providers and with past or present program participants or individuals in need of residential programs, or both.

(b) On or before December 15, 2019, the Department shall submit a report to the House Committees on Appropriations and on Health Care and to the Senate Committees on Appropriations and on Health and Welfare containing its findings and recommendations related to the analysis required pursuant to subsection (a) of this section.

Sec. 3. AFFORDABLE HOUSING OPTIONS; LEGISLATIVE INTENT

The Department of Mental Health, in collaboration with the Vermont Housing and Conservation Board, the Vermont State Housing Authority, and other community service organizations, shall initiate efforts to increase the number of affordable housing opportunities for individuals with mental health needs, including those experiencing homelessness, by identifying potential funding sources for supportive housing and services and by using Section 8 vouchers to the greatest extent possible. If funding is available to invest in these affordable housing opportunities, it is the intent of the General Assembly that the funds shall be used to create new options for affordable permanent housing around the State based on My Pad, Housing First, and other evidence-based supportive housing models.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

(For text see House Journal March 21, 2019)

Constitutional Proposal

Prop 5 Declaration of rights; right to personal reproductive liberty

Fifth Day on the Notice Calendar

Rep. Pugh of South Burlington for Human Services.

SENATE CHAMBER

PROPOSED AMENDMENT TO THE CONSTITUTION

OF THE STATE OF VERMONT

Offered by: Senators Ashe, Balint, Lyons and Sears

Subject: Declaration of rights; right to personal reproductive liberty

PROPOSAL 5

Sec. 1. PURPOSE

(a) This proposal would amend the Constitution of the State of Vermont to ensure that every Vermonter is afforded personal reproductive liberty. The Constitution is our founding legal document stating the overarching values of our society. This amendment is in keeping with the values espoused by the current Vermont Constitution. Chapter I, Article 1 declares “That all persons are born equally free and independent, and have certain natural, inherent, and unalienable rights.” Chapter I, Article 7 states “That government is, or ought to be, instituted for the common benefit, protection, and security of the people.” The core value reflected in Article 7 is that all people should be afforded all the benefits and protections bestowed by the government, and that the government should not confer special advantages upon the privileged. This amendment would reassert the principles of equality and personal liberty reflected in Articles 1 and 7 and ensure that government does not create or perpetuate the legal, social, or economic inferiority of any class of people. This proposed constitutional amendment is not intended to limit the scope of rights and protections afforded by Article 7 or any other provision in the Vermont Constitution.

(b) The right to reproductive liberty is central to the exercise of personal autonomy and involves decisions people should be able to make free from compulsion of the State. Enshrining this right in the Constitution is critical to ensuring equal protection and treatment under the law and upholding the right of all people to health, dignity, independence, and freedom.

Sec. 2. Article 22 of Chapter I of the Vermont Constitution is added to read:

Article 22. [Personal reproductive liberty]

That an individual’s right to personal reproductive autonomy is central to the liberty and dignity to determine one’s own life course and shall not be denied or infringed unless justified by a compelling State interest achieved by the least restrictive means.

Sec. 3. EFFECTIVE DATE

The amendment set forth in Sec. 2 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2022 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

(Committee Vote: 8-3-0)

Public Hearings

May 8, 2019 - Room 11 - 5:00-7:00 P.M. - Hearing held by House Government Operations Committee on Constitutional Proposal 2- Declaration of Rights; Clarifying the prohibition on slavery and indentured servitude.