

Senate Calendar

MONDAY, MAY 13, 2019

SENATE CONVENES AT: 1:30 P.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

UNFINISHED BUSINESS OF MAY 3, 2019

House Proposal of Amendment

S. 149 An act relating to miscellaneous changes to laws related to vehicles and the Department of Motor Vehicles.....2191

NEW BUSINESS

Third Reading

H. 16 An act relating to boards and commissions..... 2205
Amendment - Sens. White, et al2205
Amendment - Sen. Sirotkin2206

H. 330 An act relating to repealing the statute of limitations for civil actions based on childhood sexual abuse.....2207

Second Reading

Favorable

H. 539 An act relating to approval of amendments to the charter of the Town of Stowe and to the merger of the Town and the Stowe Fire District No. 3
Government Operations Report - Sen. Collamore 2207

H. 540 An act relating to approval of the amendments to the charter of the Town of Williston
Government Operations Report - Sen. Collamore 2208

H. 544 An act relating to approval of amendments to the charter of the City of Burlington
Government Operations Report - Sen. Collamore 2208

H. 549 An act relating to approval of the dissolution of Rutland Fire District No. 10
Government Operations Report - Sen. Collamore 2208

Favorable with Proposal of Amendment

H. 536 An act relating to education finance
Finance Report - Sen. Cummings2208

House Proposal of Amendment to Senate Proposal of Amendment

H. 133 An act relating to miscellaneous energy subjects..... 2209

NOTICE CALENDAR

Second Reading

Favorable with Proposal of Amendment

H. 287 An act relating to small probate estates
Judiciary Report - Sen. Baruth 2212

H. 524 An act relating to health insurance and the individual mandate
Finance Report - Sen. Pearson 2215

H. 525 An act relating to miscellaneous agricultural subjects
Agriculture Report - Sen. Collamore2218
Finance Report - Sen. Pearson 2244
Appropriations Report - Sen. Starr2244

H. 530 An act relating to the qualifications and election of the Adjutant
and Inspector General
Government Operations Report - Sen. White 2244
Appropriations Report - Sen. Kitchel2250

House Proposals of Amendment

S. 18 An act relating to consumer justice enforcement..... 2250
S. 31 An act relating to informed health care financial decision making... 2252
S. 58 An act relating to the State hemp program..... 2256
S. 73 An act relating to licensure of ambulatory surgical centers.....2267
S. 96 An act relating to the provision of water quality services..... 2273
S. 112 An act relating to earned good time.....2294
Amendment - Sens. Sears, et al2299
S. 131 An act relating to insurance and securities..... 2304

House Proposals of Amendment to Senate Proposals of Amendment

H. 132 An act relating to adopting protections against housing
discrimination for victims of domestic and sexual violence.....2323
H. 518 An act relating to fair and impartial policing.....2323

ORDERS OF THE DAY

ACTION CALENDAR

UNFINISHED BUSINESS OF FRIDAY, MAY 3, 2019

House Proposal of Amendment

S. 149

An act relating to miscellaneous changes to laws related to vehicles and the Department of Motor Vehicles.

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

First: By striking out Sec. 1, 23 V.S.A. § 104(a), in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. 23 V.S.A. § 104(a) is amended to read:

~~(a) The records of the registration of motor vehicles, snowmobiles, and motorboats, licensing of operators and registration of dealers, all original accident reports, and the records showing suspension and revocation of licenses and registrations and the records regarding diesel fuel, gasoline, and rental vehicle taxes shall be deemed official and public records, and shall be open to public inspection at all reasonable hours. The Commissioner shall furnish certified copies of the records to any interested person on payment of such fee as established by subdivision 114(a)(21) of this title. Notwithstanding section 114 of this title, information from the records of the Department may be made available to government agencies in the manner determined by the Commissioner and at the actual cost of furnishing the same. The records may be maintained on microfilm or electronic imaging. Any information contained in Department records is subject to and shall be released pursuant to the Driver's Privacy Protection Act, 18 U.S.C. chapter 123 as amended.~~

Second: By striking out Sec. 2, 23 V.S.A. § 114, in its entirety and inserting in lieu thereof a new Sec. 2 to read as follows:

Sec. 2. 23 V.S.A. § 114 is amended to read:

§ 114. FEES

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

- | | |
|--|---------|
| (1) Listings of 1 through 4 registrations | \$8.00 |
| (2) Certified copy of registration application | \$8.00 |
| (3) Sample plates | \$18.00 |

(4) Lists of registered dealers, transporters, periodic inspection stations, fuel dealers, and distributors, including gallonage sold or delivered and rental vehicle companies	\$8.00 per page
(5) [Repealed.]	
(6) Periodic inspection sticker record	\$8.00
(7) Certified copy individual accident crash report	\$12.00
(8) Certified copy police accident crash report	\$18.00
(9) Certified copy suspension notice	\$8.00
(10) Certified copy mail receipt	\$8.00
(11) Certified copy proof of mailing	\$8.00
(12) Certified copy reinstatement notice	\$8.00
(13) Certified copy operator's license application	\$8.00
(14) Certified copy three-year operating record	\$14.00
(15) [Repealed.]	
(16) Government official photo identification card	\$6.00
(17) Listing of operator's licenses of 1 through 4	\$8.00
(18) Statistics and research	\$42.00 per hour
(19) Insurance information on crash	\$8.00
(20) Certified copy complete operating record	\$20.00
(21) Records not otherwise specified	\$8.00 per page
(22) List of title records and related data elements excluding any personally identifiable information—initial computer programming <u>Public records request for Department records requiring custom computer programming</u>	\$5,331.00 <u>\$100.00 per hour, but not less than \$500.00</u>
(23) List of title records and related data elements excluding any personally identifiable information—record set on electronic media <u>Public records request for Department records requiring custom computer programming (updated)</u>	\$119.00

(b) The Commissioner shall furnish the items listed in subsection (a) of this section ~~only upon a request which~~ that completely identifies the information sought or pursuant to a contract with an outside entity for purposes permitted under law, including the Driver's Privacy Protection Act, 18 U.S.C. chapter 123 as amended. ~~Completely identifying~~ For purposes of this subsection, a request that completely identifies the information sought for individuals an individual shall mean name and date of birth, and for vehicles it a vehicle shall mean either the registration number or the vehicle identification number.

Third: By striking out Sec. 16, 23 V.S.A. chapter 41, in its entirety and inserting in lieu thereof a new Sec. 16 to read as follows:

Sec. 16. 23 V.S.A. chapter 41 is added to read:

CHAPTER 41. AUTOMATED VEHICLE TESTING

§ 4201. SHORT TITLE

This chapter may be cited as the Automated Vehicle Testing Act.

§ 4202. DEFINITIONS

As used in this chapter:

(1) “Automated driving system” means the hardware and software that are collectively capable of performing the entire dynamic driving task within its operational design domain, if any, including achieving a minimal risk condition, without any intervention or supervision by a conventional human driver.

(2) “Automated vehicle” means a motor vehicle that is equipped with an automated driving system.

(3) “Automated vehicle tester” or “tester” means an individual, company, public agency, or other organization that is testing automated vehicles on public highways in this State pursuant to this chapter including an automated vehicle manufacturer, municipal or State agency, institution of higher education, fleet service provider, or automotive equipment or technology provider.

(4) “Conventional human driver” means an individual who manually engages in-vehicle braking, accelerating, steering, and transmission gear selection input devices in order to operate a vehicle.

(5) “Dynamic driving task” means all the real-time operational and tactical functions required to operate a vehicle in on-road traffic within its specific operational design domain, if any, excluding the strategic functions such as trip scheduling and selection of destinations and waypoints.

(6) “Highly automated vehicle” means a vehicle equipped with an automated driving system capable of performing all aspects of the dynamic driving task within its operational design domain, if any, including achieving a minimal risk condition, without any intervention or supervision by a conventional human driver.

(7) “Manufacturer” means an individual or company that designs, produces, or constructs vehicles or equipment. Manufacturers include original equipment manufacturers (OEMs), multiple and final stage manufacturers, individuals or companies making changes to a completed vehicle before first retail sale or deployment (upfitters), and modifiers (individuals or companies making changes to existing vehicles after first retail sale or deployment).

(8) “Minimal risk condition” means a condition in which an automated vehicle operating without a human driver, upon experiencing a failure of its automated driving system that renders the automated vehicle unable to perform the dynamic driving task, achieves a reasonably safe state that may include bringing the automated vehicle to a complete stop.

(9) “Operational design domain” means a description of the specific domain or domains in which an automated driving system is designed to properly operate, including types of roadways, ranges of speed, weather, time of day, and environmental conditions.

(10) “Operator” means an individual employed by or under contract with an automated vehicle tester who has successfully completed the tester’s training on safe driving and the capabilities and limitations of the automated vehicle and automated driving system, can take immediate manual or remote control of the automated vehicle being tested, is 21 years of age or older, and holds an operator’s license for the class of vehicle being tested.

(11) “Public highway” means a State or municipal highway as defined in 19 V.S.A. § 1(12).

§ 4203. TESTING OF AUTOMATED VEHICLES ON PUBLIC HIGHWAYS

(a) An automated vehicle shall not be operated on public highways for testing until the Traffic Committee as defined in 19 V.S.A. § 1(24) approves a permit application for automated vehicle testers that defines the geographic scope and operational design domain for the test and demonstrates the ability of the automated vehicle tester to comply with the requirements of this section.

(b) Prior to approving a permit application, the Traffic Committee will conduct a hearing to provide for comments from the public. Legislative bodies of the municipalities where an automated vehicle will be tested shall be

notified by the Traffic Committee 60 calendar days prior to the Traffic Committee hearing when the geographic scope of the test includes State highways or Class 1, 2, 3, or 4 Town Highways, as classified pursuant to 19 V.S.A. § 302, within the geographic boundaries of the municipality.

(c) The Traffic Committee is authorized to approve the testing of automated vehicles on:

(1) All State highways and Class 1 Town Highways.

(2) Class 2, 3, and 4 Town Highways within the geographic boundaries of municipalities that have preapproved testing of automated vehicles on Class 2, 3, and 4 Town Highways within the geographic boundaries of the municipality as of the date the permit application for automated vehicle testing is filed. A municipality may immediately revoke its preapproval of automated vehicle testing by notifying the Secretary of Transportation in writing that it no longer wishes to allow testing of automated vehicles on Class 2, 3, and 4 Town Highways within the geographic boundaries of the municipality.

(d) The Agency of Transportation's Automated Vehicle Testing Guide shall include a list of municipalities that have preapproved testing of automated vehicles and shall update the Automated Vehicle Testing Guide within 10 business days after a municipality notifies the Secretary of Transportation in writing that it now wishes to allow testing of automated vehicles on Class 2, 3, and 4 Town Highways within the geographic boundaries of the municipality or no longer wishes to allow testing of automated vehicles on Class 2, 3, and 4 Town Highways within the geographic boundaries of the municipality.

(e) The Traffic Committee has the sole authority to approve specific test permit applications. Municipal approval of specific testing permits is not required. Notwithstanding subdivision (c)(2) of this section, after a test permit has been approved by the Traffic Committee, all modifications to the operational design domain or other permit conditions, including changes affecting town highways in a preapproved testing municipality, requires approval by the Traffic Committee.

(f) Before a test commences, the Traffic Committee shall make approved automated vehicle test permits readily available to law enforcement and municipalities within the geographic scope of the operational design domain designated in the permit.

(g) The automated vehicle tester shall submit a report to the Traffic Committee annually, until all testing ceases, summarizing results and observations related to safety, traffic operations, interaction with roadway infrastructure, comments from the public, and any other relevant matters.

(h) An automated vehicle tester shall not test an automated vehicle on a public highway unless:

(1) The operator is:

(A) seated in the driver's seat of the automated vehicle;

(B) monitoring the operation of the automated vehicle; and

(C) capable of taking immediate manual control of such automated vehicle.

(2) The automated vehicle tester:

(A) registers each automated vehicle to be tested with the Commissioner pursuant to chapter 7 of this title;

(B) submits to the Commissioner, in a manner and form directed by the Commissioner, proof of liability insurance, self-insurance, or a surety bond of at least five million dollars for damages by reason of bodily injury, death, or property damage caused by an automated vehicle while engaged in automated vehicle testing;

(C) has established and enforces a zero-tolerance policy for drug and alcohol use by operators while engaged in automated vehicle testing. The policy shall include provisions for investigations of alleged policy violations and the suspension of drivers under investigation; and

(D) has conducted background checks for all operators pursuant to section 751 of this title, which may be inspected by the Commissioner of Motor Vehicles or designee pursuant to section 752 of this title.

(3) The operator and automated vehicle tester:

(A) comply with applicable standards established by the National Highway Traffic Safety Administration regarding the testing of automated vehicles or are capable of providing proof of exemptions or waivers to such standards;

(B) report to the Agency of Transportation and the applicable law enforcement agency within 72 hours after any motor vehicle crash involving the testing of the automated vehicle that results in personal injury or property damage; and

(C) satisfy any other requirements and permit conditions as determined by the Traffic Committee as necessary to ensure the safe operation of such automated vehicles.

(i) An automated vehicle testing permit may be voided and invalidated for the trip by a law enforcement officer who determines there is a violation of

any condition specified in the terms of the automated vehicle test permit or that the continuation of the trip would be unsafe.

(j) An automated vehicle testing permit may be suspended or revoked by the Traffic Committee if, after the opportunity for a hearing, the Traffic Committee determines that there is a violation of any condition or conditions specified in the terms of the automated vehicle test permit that warrants the suspension or revocation of the testing permit or that the continuation of the testing would be unsafe.

(k) Operating or testing in violation of a suspension or revocation order shall be a traffic violation for which there shall be a penalty of not more than \$1,000.00.

(l) Test vehicles must be capable of operating in compliance with applicable traffic and motor vehicle laws of this State, subject to this subchapter.

(m) An individual shall not operate, attempt to operate, or be in actual physical control of an automated vehicle being tested on a public highway when the individual's blood alcohol concentration is 0.02 or more.

(n) An automated vehicle being tested on a public highway shall be clearly identifiable by the public.

Fourth: By striking out Sec. 18, automated vehicle testing implementation, in its entirety and inserting in lieu thereof a new Sec. 18 to read as follows:

Sec. 18. AUTOMATED VEHICLE TESTING IMPLEMENTATION

(a) As soon as practicable, but not later than January 1, 2021, the Agency of Transportation, in consultation with Vermont's Regional Planning Commissions, shall identify which legislative bodies of municipalities in the State have approved the testing of automated vehicles on the Class 2, 3, and 4 Town Highways, as classified pursuant to 19 V.S.A. § 302, within the geographic boundaries of the municipality.

(b) As soon as practicable, but not later than January 1, 2021, the Agency of Transportation shall publish an Automated Vehicle Testing Guide and application form to support review by the Traffic Committee and consistent with the requirements of 23 V.S.A. § 4203 as added in Sec. 16 of this act, including that the Automated Vehicle Testing Guide include a list of municipalities that have preapproved testing of automated vehicles on Class 2, 3, and 4 Town Highways within the geographic boundaries of the municipality and be updated whenever a new municipality wishes to allow testing of automated vehicles on Class 2, 3, and 4 Town Highways within the geographic boundaries of the municipality or a municipality no longer wishes to allow

testing of automated vehicles on Class 2, 3, and 4 Town Highways within the geographic boundaries of the municipality.

(c) The Agency of Transportation may adopt rules to implement the provisions of 23 V.S.A. chapter 41 as added in Sec. 16 of this act.

Fifth: By striking out Sec. 23, 23 V.S.A. § 631, in its entirety and inserting in lieu thereof a new Sec. 23 to read as follows:

Sec. 23. 23 V.S.A. § 631 is amended to read:

§ 631. REQUIREMENTS; RULES

(a) The Commissioner may adopt rules pursuant to 3 V.S.A. chapter 25 governing the examination of new applicants for ~~operators~~^{operator's} licenses and may prescribe ~~what shall be requisite~~ requirements to obtain or hold a license or learner's permit, by either a new or renewal applicant, as to driving experience, mental and physical qualifications, and any other matter or thing ~~which that~~, in his or her judgment, will contribute to the selection of safe and efficient operators.

(b) Any written forms, applications, or tests used by the Department of Motor Vehicles for operator licensing shall be translated into primary languages of nations from which individuals assisted by the U.S. Committee for Refugees and Immigrants Vermont in the prior 10 years hail, as determined on an annual basis by the Department in consultation with the U.S. Committee for Refugees and Immigrants Vermont, and available at all Department locations and on the Department's website if the English version is available. Nothing in this subsection is intended to require the Department to translate any educational manuals.

Sixth: By striking out Sec. 25, 23 V.S.A. § 4108, in its entirety and inserting in lieu thereof a new Sec. 25 to read as follows:

Sec. 25. [Deleted.]

Seventh: By striking out Sec. 28, effective dates, and its accompanying reader assistance heading in their entirety and inserting in lieu thereof the following:

* * * Colored Signal Lamps * * *

Sec. 28. 23 V.S.A. § 1252 is amended to read:

§ 1252. ISSUANCE OF PERMITS FOR SIRENS OR COLORED LAMPS,
OR BOTH; USE OF AMBER LAMPS

(a) When satisfied as to the condition and use of the vehicle, the Commissioner shall issue and may revoke, for cause, permits for sirens ~~or~~ and colored signal lamps in the following manner:

(1) Sirens, ~~or blue or blue and~~ signal lamps, red signal lamps, white signal lamps, or a combination of these thereof, may be authorized for all law enforcement vehicles owned or leased by a law enforcement agency, a certified law enforcement officer, or the Vermont Criminal Justice Training Council. If the applicant is a constable, the application shall be accompanied by a certification by the town clerk that the applicant is the duly elected or appointed constable and attesting that the town has not voted to limit the constable's authority to engage in enforcement activities under 24 V.S.A. § 1936a.

(2) Sirens and red or red and white signal lamps may be authorized for all ambulances, ~~fire apparatus~~ and other emergency medical service (EMS) vehicles, vehicles owned or leased by a fire department, vehicles used solely in rescue operations, or vehicles owned or leased by, or provided to, volunteer firefighters and voluntary rescue squad members, including a vehicle owned by a volunteer's employer when the volunteer has the written authorization of the employer to use the vehicle for emergency fire or rescue activities. A single blue signal lamp may be authorized for all ambulances, other EMS vehicles, and vehicles owned or leased by a fire department or rescue squad organization, provided that the Commissioner shall require the lamp to be mounted so as to be visible primarily from the rear of the vehicle.

(3) No vehicle may be authorized a permit for more than one of the combinations described in subdivisions (1) and (2) of this subsection.

(4) No motor vehicle, other than one owned by the applicant, shall be issued a permit until the Commissioner has recorded the information regarding both the owner of the vehicle and the applicant for the permit.

(5) Upon application to the Commissioner, the Commissioner may issue a single permit for all the vehicles owned or leased by the applicant.

(6) Sirens and red or red and white signal lamps, or sirens and blue or blue and white signal lamps, may be authorized for restored emergency or enforcement vehicles used for exhibition purposes. Sirens and lamps

authorized under this subdivision may only be activated during an exhibition, such as a car show or parade.

(b) Amber signal lamps shall be used on road maintenance vehicles, service vehicles, and wreckers and shall be used on all registered snow removal equipment when in use removing snow on public highways and the amber lamps shall be mounted so as to be visible from all sides of the motor vehicle. ~~A vehicle equipped with an amber signal lamp may not be issued a permit for the installation and use of a siren.~~

* * * Junior Operator Use of Portable Electronic Devices * * *

Sec. 29. 23 V.S.A. § 1095a(d) is added to read:

(d)(1) A person who violates this section commits a traffic violation as defined in section 2302 of this title and shall be subject to a civil penalty of not less than \$100.00 and not more than \$200.00 for a first violation, and of not less than \$250.00 and not more than \$500.00 for a second or subsequent violation within any two-year period.

(2) A person convicted of violating this section while operating within the following areas shall have four points assessed against his or her driving record for a first conviction and five points assessed for a second or subsequent conviction:

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

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

(3) A person convicted of violating this section outside the areas designated in subdivision (2) of this subsection shall have two points assessed against his or her driving record.

Sec. 29a. 23 V.S.A. § 2502 is amended to read:

§ 2502. POINT ASSESSMENT; SCHEDULE

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

(1) Two points assessed for:

* * *

(LL)(i) § 1095.

Entertainment picture visible to operator;

(ii) § 1095a(d)(3).

Junior operator use of portable electronic device outside work or school zone;

(iii) § 1095b(c)(3).

Use of portable electronic device outside work or school zone;

* * *

(3) Four points assessed for:

* * *

(E) § 1095a(d)(2).

Junior operator use of portable electronic device in work or school zone—first offense;

(F) § 1095b(c)(2).

Use of portable electronic device in work or school zone—first offense;

(4) Five points assessed for:

* * *

(D) § 1095a(d)(2).

Junior operator use of portable electronic device in work or school zone—second and subsequent offenses;

(E) § 1095b(c)(2).

Use of portable electronic device in work or school zone—second and subsequent offenses;

* * *

* * * Master License Agreement Study * * *

Sec. 30. STUDY ON THE AGENCY OF TRANSPORTATION'S USE OF MASTER LICENSE AGREEMENTS AND ALTERNATIVE OPTIONS

The Agency of Transportation, in consultation with the Vermont League of Cities and Towns, shall report back to the House and Senate Committees on Transportation on or before November 15, 2019 concerning the use and contents of master license agreements and other agreements or contracts by the Agency of Transportation when a municipality, utility, or other person needs to use the right-of-way for the line of railroad owned by the State. The report shall include the history of the Agency's use of master license agreements and

other agreements or contracts, including the contents thereof; alternatives to the use of such agreements; whether a municipality or municipal operated utility can secure sufficient insurance coverage to enter into the Agency's current iteration of the standard conditions to the master license agreement it uses when a municipality, utility, or other person needs to use the right-of-way for the line of railroad owned by the State; and what other states do when a municipality, utility, or other person needs to use the right-of-way for any state-owned railroad lines.

* * * Safety Belts * * *

Sec. 31. 23 V.S.A. § 1259 is amended to read:

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

* * *

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

(f) The penalty for violation of this section shall be as follows:

- (1) ~~\$25.00~~ \$0.00 for a first violation;
- (2) ~~\$50.00~~ \$25.00 for a second violation;
- (3) \$50.00 for a third violation; and
- (4) \$100.00 for ~~third~~ fourth and subsequent violations.

Sec. 31a. REPORTING BY THE DEPARTMENT OF MOTOR VEHICLES

The Vermont Criminal Justice Training Council, in consultation with law enforcement agencies, shall submit a written report to the House and Senate Committees on Transportation and on Judiciary on or before the 15th day of January in 2022, 2023, and 2024 containing, for the prior State fiscal year:

(1) the total number of traffic stops broken out by race of the driver involved in the traffic stop; and

(2) the following information for all traffic stops involving safety belts not worn by persons 18 years of age or over:

(A) the age, gender, and race of the driver involved in the traffic stop;

(B) the reason for the traffic stop;

(C) the type of search conducted, if any;

(D) the evidence located, if any;

(E) the outcome of the traffic stop, including whether:

(i) a written warning was issued,

(ii) a citation for a civil ticket was issued;

(iii) a citation or arrest for a misdemeanor or a felony occurred; or

(iv) no subsequent action was taken;

(F) summary data broken out by age, gender, race, and outcome of the traffic stop where the reason for the stop was the primary enforcement of a person 18 years of age or over not wearing a safety belt; and

(G) summary data broken out by age, gender, race, and outcome of the traffic stop where the reason for the stop was for any reason other than the primary enforcement of a person 18 years of age or over not wearing a safety belt.

* * * Motor Vehicle Registrations * * *

Sec. 32. 23 V.S.A. § 307 is amended to read:

§ 307. CARRYING OF REGISTRATION CERTIFICATE; REPLACEMENT AND CORRECTED CERTIFICATES

(a) A person shall not operate a motor vehicle nor draw a trailer or semi-trailer unless all required registration certificates are carried in some easily accessible place in the motor vehicle.

(b) In case of the loss, mutilation, or destruction of a certificate, the owner of the vehicle described in it shall forthwith notify the Commissioner and remit a fee of \$16.00, upon receipt of which the Commissioner shall furnish the owner with a duplicate certificate.

(c) A corrected registration certificate shall be furnished by the Commissioner upon request and receipt of a fee of \$16.00.

(d) An operator cited for violating subsection (a) of this section with respect to a pleasure car, motorcycle, or truck that could be registered for less than 26,001 pounds shall be subject to a civil penalty of not more than \$5.00, which penalty shall be exempt from surcharges under 13 V.S.A. § 7282(a), if he or she is cited within the 14 days following the expiration of the motor vehicle's registration.

Sec. 33. 23 V.S.A. § 511 is amended to read:

§ 511. MANNER OF DISPLAY

(a) A motor vehicle operated on any highway shall have displayed in a conspicuous place either one or two number plates as the Commissioner may require. Such number plates shall be furnished by the Commissioner and shall show the number assigned to such vehicle by the Commissioner. If only one number plate is furnished, the same shall be securely attached to the rear of the vehicle. If two are furnished, one shall be securely attached to the rear and one to the front of the vehicle. The number plates shall be kept entirely unobscured, and the numerals and the letters thereon shall be plainly legible at all times. They shall be kept horizontal, shall be so fastened as not to swing, excepting however, there may be installed on a motor truck or truck tractor a device which would, upon contact with a substantial object, permit the rear number plate to swing toward the front of the vehicle, provided such device automatically returns the number plate to its original rigid position after contact is released, and the ground clearance of the lower edges thereof shall be established by the Commissioner pursuant to the provisions of 3 V.S.A. chapter 25.

(b) A registration validation sticker shall be unobstructed, and shall be affixed as follows:

(1) for vehicles issued registration plates with dimensions of approximately 12 × 6 inches, in the lower right corner of the rear registration plate; and

(2) for vehicles issued a registration plate with a dimension of approximately 7 × 4 inches, in the upper right corner of the rear registration plate.

(c) A person shall not operate a motor vehicle unless number plates and a validation sticker are displayed as provided in this section.

(d) An operator cited for violating subsection (c) of this section with respect to failure to display a validation sticker on a pleasure car, motorcycle, or truck that could be registered for less than 26,001 pounds shall be subject to a civil penalty of not more than \$5.00, which penalty shall be exempt from surcharges under 13 V.S.A. § 7282(a), if he or she is cited within the 14 days following the expiration of the motor vehicle's registration.

* * * Motor Vehicle Inspections * * *

Sec. 34. 23 V.S.A. § 1222(c) is amended to read:

(c) A person shall not operate a motor vehicle unless it has been inspected as required by this section and has a valid certification of inspection affixed to it. A person shall be subject to a ~~fine~~ civil penalty of not more than \$5.00, which penalty shall be exempt from surcharges under 13 V.S.A. § 7282(a), if he or she is cited for a violation of this section within the 14 days following expiration of the motor vehicle inspection sticker. The month of next inspection for all motor vehicles shall be shown on the current inspection certificate affixed to the vehicle.

* * * Effective Dates * * *

Sec. 35. EFFECTIVE DATES

(a) This section and Secs. 26 (Department of Motor Vehicles training), 27 (translated documents and use of interpreters implementation), and 30 (master license agreement study) shall take effect on passage.

(b) Secs. 23 (written forms) and 24 (examination required) shall take effect on July 1, 2020.

(c) All other sections shall take effect on July 1, 2019.

NEW BUSINESS

Third Reading

H. 16.

An act relating to boards and commissions.

Proposal of amendment to H. 16 to be offered by Senators White, Bray, Clarkson, Collamore and Pollina before Third Reading

Senators White, Bray, Clarkson, Collamore and Pollina move to amend the Senate proposal of amendment by striking out Sec. 10, 3 V.S.A. § 23 (Commission on International Trade and State Sovereignty; repeal) in its entirety and its accompanying reader assistance heading and inserting in lieu thereof the following:

Sec. 10. [Deleted.]

**Proposal of amendment to H. 16 to be offered by Senator Sirotkin before
Third Reading**

Senator Sirotkin moves to amend the Senate proposal of amendment as follows:

By striking out Sec. 21, 3 V.S.A. § 925, in its entirety and inserting in lieu thereof a new Sec. 21 to read as follows:

Sec. 21. 3 V.S.A. § 925 is amended to read:

§ 925. MEDIATION; FACT FINDING

* * *

(i)(1) If In the case of the Vermont State Colleges or the University of Vermont, if the dispute remains unresolved 20 days after transmittal of findings and recommendations to the parties or within a time frame mutually agreed upon by the parties that may be no more than an additional 30 days, each party shall submit as a single package its last best offer on all disputed issues to the Board. Each party's last best offer shall be filed with the Board under seal and shall be unsealed and placed in the public record only when both parties' last best offers are filed with the Board. The Board shall hold one or more hearings. Within 30 days of the certifications, the Board shall select between the last best offers of the parties, considered in its their entirety without amendment.

(2) In the case of the State of Vermont or the Department of State's Attorneys and Sheriffs, if the dispute remains unresolved 20 days after transmittal of findings and recommendations to the parties or within a time frame mutually agreed upon by the parties that may be no more than an additional 30 days, each party shall submit as a single package its last best offer on all disputed issues to an arbitrator mutually agreed upon by the parties. If the parties cannot agree on an arbitrator, the American Arbitration Association shall appoint a neutral third party to act as arbitrator. Each party's last best offer shall be filed with the arbitrator under seal and shall be unsealed and placed in the public record only when both parties' last best offers are filed with the arbitrator. The arbitrator shall hold one or more hearings. Within 30 days of the certifications, the arbitrator shall select between the last best offers of the parties, considered in their entirety without amendment.

(j) Notwithstanding the provisions of subsection (i) of this section,:

(1) In the case of the Vermont State Colleges or the University of Vermont, should the Board find the last best offers of both parties unreasonable and likely to produce undesirable results, or likely to result in a long-lasting negative impact upon the parties' collective bargaining

relationship, then the Board may select the recommendation of the fact finder under subsection (g) of this section as to those disputed issues submitted to the Board in the last best offers.

(2) In the case of the State of Vermont or the Department of State's Attorneys and Sheriffs, should the arbitrator find the last best offers of both parties unreasonable and likely to produce undesirable results, or likely to result in a long-lasting negative impact upon the parties' collective bargaining relationship, then the arbitrator may select the recommendation of the fact finder under subsection (g) of this section as to those disputed issues submitted to the arbitrator in the last best offers.

~~(k)(1) In the case of the State of Vermont or the Department of State's Attorneys and Sheriffs, the decision of the Board shall be final, and the terms of the chosen agreement shall be binding on each party, subject to appropriations in accordance with subsection 982(d) of this title. In the case of the University of Vermont or the Vermont State Colleges, the decision of the Board shall be final and binding on each party.~~

(2) In the case of the State of Vermont or the Department of State's Attorneys and Sheriffs, the decision of the arbitrator shall be final, and the terms of the chosen agreement shall be binding on each party, subject to appropriations in accordance with subsection 982(d) of this title.

(l) Nothing herein shall be construed to permit an arbitrator or the Board to issue an order under subsection (i) of this section binding upon the parties that is in conflict with any statute or any rule or regulation that is not bargainable.

H. 330.

An act relating to repealing the statute of limitations for civil actions based on childhood sexual abuse.

Second Reading

Favorable

H. 539.

An act relating to approval of amendments to the charter of the Town of Stowe and to the merger of the Town and the Stowe Fire District No. 3.

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

(Committee vote: 5-0-0)

(No House amendments)

H. 540.

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

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

(Committee vote: 5-0-0)

(No House amendments)

H. 544.

An act relating to approval of amendments to the charter of the City of Burlington.

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

(Committee vote: 5-0-0)

(No House amendments)

H. 549.

An act relating to approval of the dissolution of Rutland Fire District No. 10.

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

(Committee vote: 5-0-0)

(No House amendments)

Favorable with Proposal of Amendment

H. 536.

An act relating to education finance.

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

The Committee recommends that the Senate propose to the House to amend the bill by striking out Sec. 5 in its entirety and inserting in lieu thereof the following:

Sec. 5. PROPERTY DOLLAR EQUIVALENT YIELD, INCOME
DOLLAR EQUIVALENT YIELD, AND NONRESIDENTIAL
RATE FOR FISCAL YEAR 2020

(a) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2020 only, the property dollar equivalent yield shall be \$10,591.00.

(b) Pursuant to 32 V.S.A. § 5402b(b), for fiscal year 2020 only, the income dollar equivalent yield shall be \$13,015.00.

(c) Notwithstanding any other provision of law, the nonresidential rate for fiscal year 2020 shall be \$1.598 per \$100.00 of equalized education property value under 32 V.S.A. § 5402(a)(1).

(Committee vote: 7-0-0)

(No House amendments)

House Proposal of Amendment to Senate Proposal of Amendment

H. 133

An act relating to miscellaneous energy subjects

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

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.

NOTICE CALENDAR

Second Reading

Favorable with Proposal of Amendment

H. 287.

An act relating to small probate estates.

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

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

Sec. 1. 14 V.S.A. chapter 81 is amended to read:

CHAPTER 81. SMALL ESTATES

~~§ 1901. FILING INVENTORY AND BOND CONDITIONED UPON
PAYMENT OF FUNERAL EXPENSE WITH PETITION
COMMENCEMENT OF SMALL ESTATE~~

~~When application is made to the judge of probate for the appointment of an administrator or executor of an estate, there may accompany the petition the following:~~

~~(1) A true and complete inventory of the estate of the deceased, appraised under oath at its true cash value;~~

~~(2) A receipt showing that the funeral expenses of the deceased have been paid, or a personal bond in an amount determined by the judge of probate to be reasonable, conditioned for the payment of the funeral expenses of the deceased, within one year from the date of death; and~~

~~(3) The will, if any.~~

(a) When a decedent's estate has a fair market value of not more than \$45,000.00 and consists entirely of personal property, provided that the estate may include a time-share estate as defined by 32 V.S.A. § 3619(a), an estate may be commenced by filing:

(1) a petition to open a probate estate;

(2) a list of interested persons;

(3) the filing fee;

(4) an original death certificate;

(5) an inventory of the estate, including information or estimates available at the time of filing;

(6) an affidavit of paid and outstanding funeral expenses and any other known or reasonably ascertainable debts of the decedent;

(7) a bond without surety in the amount of the fair market value of the estate; and

(8) the will, if any.

(b) An interested party who does not consent to the small estate proceeding in writing shall be provided with notice of the petition and the pending fiduciary appointment and may file any objections with the court within 14 days after receiving the notice. If no objections are filed, the fiduciary appointment and any will offered for admission shall be approved by the court without further notice or hearing.

(c) If, after an estate is opened pursuant to subsection (a) of this section, it is determined that the value of the decedent's estate at the time of his or her death exceeded \$45,000.00, the fiduciary shall petition the court to order that the estate be administered pursuant to the laws and rules applicable to estates with a fair market value in excess of \$45,000.00. The court shall grant the petition if it finds that the estate has a fair market value in excess of \$45,000.00 and that all applicable fees have been paid.

§ 1902. ~~LETTERS OF ADMINISTRATION AND LETTERS~~
~~TESTAMENTARY, SMALL ESTATES, NOTICE~~

~~(a) Upon receiving and filing such petition, the judge of probate may make such investigation of the circumstances of the case and the facts set forth in the petition, as he or she deems proper and necessary.~~

~~(b) The court may grant administration of the estate to the petitioner or some other suitable person forthwith without further notice, and may issue letters of administration to the administrator or letters testamentary to the executor without requiring further bonds, if from the petition and the investigation it appears to the satisfaction of the court that:~~

~~(1)(A) the deceased left a surviving spouse or children of any age, or both; or~~

~~(B) the deceased left a surviving parent or parents but no spouse or child;~~

~~(2) the deceased died seized of no real estate other than a time-share estate as defined by 32 V.S.A. § 3619(a); and~~

~~(3) the personal estate of the deceased, appraised at its true cash value as of the date of death, amounts to not more than the sum of \$10,000.00.~~

(a) When a small estate is commenced pursuant to section 1901 of this title:

(1) If the decedent had a will, the will shall be admitted and letters of administration shall be issued as provided in section 902 of this title.

(2) If the decedent did not have a will, letters of administration shall be issued as provided in section 903 of this title.

(b) Within 60 days after the issuance of letters of administration, and at any time thereafter if deemed necessary by the fiduciary, the fiduciary shall confirm, correct, or supplement the inventory filed with the petition.

(c) Letters of administration issued pursuant to this section shall be effective for one year after the date of issuance. The court may extend the one-year duration upon motion of the fiduciary for good cause shown.

§ 1903. SAME; DISCHARGE UPON PAYMENT OF FUNERAL EXPENSES; RESIDUE

~~(a) In intestate estates whenever it shall appear to the satisfaction of the judge of probate that an administrator appointed under sections 1901 and 1902 of this title has paid or caused to be paid the funeral and burial expenses of said deceased, and has paid over all the balance and residue of said estate in accordance with the provisions of chapter 42 of this title, the court may forthwith discharge the administrator without further accounting and without notice.~~

(1) If it appears from the record that the estate is insolvent, the fiduciary shall apply for an order of dividend from the court. If the estate is not insolvent, the fiduciary shall make payment in settlement with all known or reasonably ascertainable creditors, including payment of income taxes due for the year of the decedent's death, and pay any remaining balance to the beneficiaries of the estate as provided by the will, if any, or as otherwise provided by law.

(2) Upon completion of the payments required by subdivision (1) of this subsection, the fiduciary shall file with the court a sworn statement setting forth the amounts and recipients of each payment.

~~(b) In testate estates, whenever it shall appear to the satisfaction of the judge of probate that an executor has paid or caused to be paid the funeral and burial expenses of the deceased and has paid over the remaining property in accordance with the terms of the will unless waived, and in that event in~~

~~accordance with law, the court may forthwith discharge such executor without further accounting and without notice. The court may discharge the fiduciary without further accounting and without notice after the fiduciary has completed the requirements of subsection (a) of this section.~~

(c) If a discharge is given under this section, any assets distributed by the ~~executor or administrator~~ fiduciary shall be subject to claims later established, and sections 1202 and 1203 of this title shall apply, but the executors or administrators shall not be liable to distributees for losses to them when required to reimburse creditors. Each distributee shall have a duty of proportionate contribution for any claims brought against one or more other distributees, not to exceed the amount received by the distributee from the estate.

Sec. 2. 14 V.S.A. § 107 is amended to read:

§ 107. ALLOWANCE OF WILL; CUSTODY OF PROPERTY

* * *

(b) Objections to allowance of the will must be filed in writing not less than ~~three business~~ seven days prior to the hearing. In the event that no timely objections are filed, the will may be allowed without hearing if it meets criteria set out in section 108 of this title.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 13, 2019, page 395)

H. 524.

An act relating to health insurance and the individual mandate.

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

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

First: By striking out Sec. 6, 33 V.S.A. § 1811, in its entirety and inserting in lieu thereof a new Sec. 6 to read as follows:

Sec. 6. 33 V.S.A. § 1811 is amended to read:

§ 1811. HEALTH BENEFIT PLANS FOR INDIVIDUALS AND SMALL EMPLOYERS

* * *

(d)(1) Guaranteed issue. A registered carrier shall guarantee acceptance of all individuals, small employers, and employees of small employers, and each dependent of such individuals and employees, for any health benefit plan offered by the carrier, regardless of any outstanding premium amount a subscriber may owe to the carrier for coverage provided during the previous plan year.

(2) Preexisting condition exclusions. A registered carrier shall not exclude, restrict, or otherwise limit coverage under a health benefit plan for any preexisting health condition.

(3) Annual limitations on cost sharing.

(A)(i) The annual limitation on cost sharing for self-only coverage for any year shall be the same as the dollar limit established by the federal government for self-only coverage for that year in accordance with 45 C.F.R. § 156.130.

(ii) The annual limitation on cost sharing for other than self-only coverage for any year shall be twice the dollar limit for self-only coverage described in subdivision (i) of this subdivision (A).

(B)(i) In the event that the federal government does not establish an annual limitation on cost sharing for any plan year, the annual limitation on cost sharing for self-only coverage for that year shall be the dollar limit for self-only coverage in the preceding calendar year, increased by any percentage by which the average per capita premium for health insurance coverage in Vermont for the preceding calendar year exceeds the average per capita premium for the year before that.

(ii) The annual limitation on cost-sharing for other than self-only coverage for any year in which the federal government does not establish an annual limitation on cost sharing shall be twice the dollar limit for self-only coverage described in subdivision (i) of this subdivision (B).

(4) Ban on annual and lifetime limits. A health benefit plan shall not establish any annual or lifetime limit on the dollar amount of essential health benefits, as defined in Section 1302(b) of the Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, and

applicable regulations and federal guidance, for any individual insured under the plan, regardless of whether the services are provided in-network or out-of-network.

(5)(A) No cost sharing for preventive services. A health benefit plan shall not impose any co-payment, coinsurance, or deductible requirements for:

(i) preventive services that have an “A” or “B” rating in the current recommendations of the U.S. Preventive Services Task Force;

(ii) immunizations for routine use in children, adolescents, and adults that have in effect a recommendation from the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention with respect to the individual involved;

(iii) with respect to infants, children, and adolescents, evidence-informed preventive care and screenings as set forth in comprehensive guidelines supported by the federal Health Resources and Services Administration; and

(iv) with respect to women, to the extent not included in subdivision (i) of this subdivision (5)(A), evidence-informed preventive care and screenings set forth in binding comprehensive health plan coverage guidelines supported by the federal Health Resources and Services Administration.

(B) Subdivision (A) of this subdivision (5) shall apply to a high-deductible health plan only to the extent that it would not disqualify the plan from eligibility for a health savings account pursuant to 26 U.S.C. § 223.

* * *

Second: By striking out Sec. 7, 8 V.S.A. § 4079a, in its entirety and inserting in lieu thereof the following:

Sec. 7. [Deleted.]

Third: In Sec. 13, effective dates, by striking out subsection (d) in its entirety and by relettering subsection (e) to be subsection (e)

(Committee vote: 7-0-0)

(For House amendments, see House Journal for March 28, 2019, pages 709-713)

H. 525.

An act relating to miscellaneous agricultural subjects.

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

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

* * * Seed Sales; Reporting * * *

Sec. 1. 6 V.S.A. § 642 is amended to read:

§ 642. DUTIES AND AUTHORITY OF THE SECRETARY

(a) The Secretary shall enforce and carry out the provisions of this subchapter, including:

(1) Sampling, inspecting, making analysis of, and testing seeds subject to the provisions of this subchapter that are transported, sold, or offered or exposed for sale within the State for sowing purposes. The Secretary shall notify promptly a person who sells, offers, or exposes seeds for sale and, if appropriate, the person who labels or transports seeds, of any violation and seizure of the seeds, or order to cease sale of the seeds under section 643 of this title.

(2) Making or providing for purity and germination tests of seed for farmers and dealers on request and to fix and collect charges for the tests made.

(3) Cooperating with the U.S. Department of Agriculture and other agencies in seed law enforcement.

(4) Prior to sale, distribution, or use of a new genetically engineered seed in the State and after consultation with a seed review committee convened under subsection (c) of this section, review the traits of the new genetically engineered seed. The Secretary may prohibit, restrict, condition, or limit the sale, distribution, or use of the seed in the State when determined necessary to prevent an adverse effect on agriculture in the State.

(b) The Secretary shall establish rules to carry out the provisions of this subchapter, including those governing the methods of sampling, inspecting, analyzing, testing, and examining seeds and reasonable standards for seed.

(c)(1) The Secretary shall convene a seed review committee to review the seed traits of a new genetically engineered seed proposed for sale, distribution, or use in the State.

(2) A seed review committee convened under this subsection shall be composed of the Secretary of Agriculture, Food and Markets or designee and the following members appointed by the Secretary:

(A) a certified commercial agricultural pesticide applicator;

(B) an agronomist or relevant crop specialist from the University of Vermont or Vermont Technical College;

(C) a licensed seed dealer; and

(D) a member of a farming sector affected by the new genetically engineered seed.

(3) A majority of the seed review committee shall approve of the sale, distribution, or use of a new genetically engineered seed prior to sale, distribution, or use in the State. In order to ensure the appropriate use or traits of a new genetically engineered seed in the State, a seed review committee may propose to the Secretary limits or conditions on the sale, distribution, or use of a seed or recommend a limited period of time for sale of the seed.

Sec. 2. 6 V.S.A. § 648 is amended to read:

§ 648. INSPECTIONS

* * *

(g) For seeds sold in Vermont that contain genetically engineered material, the manufacturer or processor distributing such seed in Vermont shall report annually on January or before February 15 to the Secretary on forms supplied by the Secretary regarding sales during the previous calendar year.

(h) For seeds sold in Vermont, the manufacturer or processor distributing the seed in Vermont shall report annually on or before February 15 to the Secretary on forms supplied by the Secretary regarding the quantity of treated article seed and the quantity of untreated seed sold in Vermont during the previous calendar year. As used in this subsection, “treated article seed” means an agricultural seed, flower seed, or vegetable seed that is a treated article pesticide as that term is defined in section 1101 of this title.

* * * Dairy Operations * * *

Sec. 3. 6 V.S.A. § 2722 is amended to read:

§ 2722. APPLICATION

Applications shall be completely filled out and sworn to by the applicant or a partner or officer thereof and in case of renewal shall be filed with the Secretary on or before July 15 of each year. New handlers may apply for

a license at any time. Renewal applications not received on or before August 15 shall be assessed a late fee of \$100.00. The application for a handler's license shall provide the following information and such other information as the Secretary by regulation shall reasonably require:

* * *

* * * Raw Milk * * *

Sec. 4. 6 V.S.A. §§ 2777 and 2778 are amended to read:

§ 2777. STANDARDS FOR THE SALE OF UNPASTEURIZED (RAW) MILK

(a) Unpasteurized milk shall be sold directly from the producer to the consumer for personal consumption only and shall not be resold.

(b) Unpasteurized milk shall be sold only from the farm on which it was produced except when ~~delivery is arranged in conformance with sale or delivery off the farm is allowed under~~ section 2778 of this chapter. Unpasteurized milk shall not be sold or offered as free samples at any location other than on the farm on which the milk was produced.

(c) Unpasteurized milk operations shall conform to reasonable sanitary standards, including:

(1)(A) Unpasteurized milk shall be derived from healthy animals ~~which~~ that are subject to appropriate veterinary care, including rabies vaccination according to accepted vaccination standards established by the Agency.

(B) A producer shall ensure that all ruminant animals are tested for brucellosis and tuberculosis, according to accepted testing standards established by the Agency, prior to the sale of unpasteurized milk.

(C) A producer shall ensure that dairy animals entering the producer's milking herd, including those born on the farm, are tested for brucellosis and tuberculosis, according to accepted testing standards established by the Agency, prior to the animal's milk being sold to consumers, unless:

(i) The dairy animal has a negative U.S. Department of Agriculture approved test for brucellosis within 30 days prior to importation into the State, in which case a brucellosis test shall not be required;

(ii) The dairy animal has a negative U.S. Department of Agriculture approved tuberculosis test within 60 days prior to importation into the State, in which case a tuberculosis test shall not be required;

(iii) The dairy animal leaves and subsequently reenters the producer's herd from a state or Canadian province that is classified as "certified free" of brucellosis and "accredited free" of tuberculosis or an equivalent classification, in which case a brucellosis or tuberculosis test shall not be required.

(D) A producer shall post test results and verification of vaccinations on the farm in a prominent place and make results available to customers and the Agency.

(d) Unpasteurized milk shall conform to the following production and marketing standards:

(1) Record keeping and reporting.

(A) A producer shall collect one composite sample of unpasteurized milk each day and keep the previous 14 days' samples frozen. The producer shall provide samples to the Agency if requested.

(B) A producer shall maintain a current list of all customers, including addresses, telephone numbers, and, when available, e-mail addresses.

(C) The producer shall maintain a list of transactions for at least one year ~~which~~ that shall include customer names, the date of each purchase, and the amount purchased.

(2) Labeling. Unpasteurized (raw) milk shall be labeled as such, and the label shall contain:

(A) The date the milk was obtained from the animal.

(B) The name, address, zip code, and telephone number of the producer.

(C) The common name of the type of animal producing the milk, such as cattle, goat, sheep, or an image of the animal.

(D) The words "Unpasteurized (Raw) Milk. ~~Not pasteurized. Keep Refrigerated.~~" on the container's principal display panel, and these words shall be clearly readable in letters at least one-eighth inch in height and prominently displayed.

(E) The words "~~This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, elders, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn.~~" "Consuming raw unpasteurized milk may cause illness, particularly in

children, seniors, persons with weakened immune systems, and pregnant women.” on the container’s principal display panel and clearly readable in letters at least one-sixteenth inch in height.

(3) Temperature. Unpasteurized milk shall be cooled to 40 degrees Fahrenheit or lower within two hours of the finish of milking and so maintained until it is obtained by the consumer. All farms shall be able to demonstrate to the Agency’s inspector that they have the capacity to keep the amount of milk sold on the highest volume day stored and kept at 40 degrees Fahrenheit or lower in a sanitary and effective manner.

(4) Storage. An unpasteurized milk bulk storage container shall be cleaned and sanitized after each emptying. Each container shall be emptied within 24 hours of the first removal of milk for packaging. Milk may be stored for up to 72 hours, but all storage containers ~~must~~ shall be emptied and cleaned at least every 72 hours. Unless milk storage containers are cleaned and sanitized daily, a written log of dates and times when milking, cleaning, and sanitizing occur shall be posted in a prominent place and be easily visible to customers.

(5) Shelf life. Unpasteurized milk shall not be transferred to a consumer after four days from the date on the label.

(6) Customer inspection and notification.

(A) The producer shall provide the customer with the opportunity to tour the farm and any area associated with the milking operation. The producer shall permit the customer to return to the farm at a reasonable time and at reasonable intervals to reinspect any areas associated with the milking operation.

(B)(i) A sign that is not smaller than 8 and one half inches by 11 inches with the words “Unpasteurized (Raw) Milk. ~~Not pasteurized. Keep Refrigerated.~~” and “~~This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, elders, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn.~~” “Consuming raw unpasteurized milk may cause illness, particularly in children, seniors, persons with weakened immune systems, and pregnant women.” shall be displayed prominently on the farm in a place where it can be easily seen by customers. ~~The lettering shall be at least one inch in height and shall be clearly readable.~~

(ii) The Secretary of Agriculture, Food and Markets shall design a template of the sign required under subdivision (6)(B)(i) of this section and shall post the template to the website of the Agency of Agriculture, Food and Markets for use by producers.

(e) A producer selling 87.5 or fewer gallons (350 quarts) of unpasteurized milk per week shall meet the requirements of subsections (a) through (d) of this section and shall sell unpasteurized milk ~~only~~ from the farm on which it was produced. A producer selling 87.5 or fewer gallons of unpasteurized milk may choose to meet the requirements of subsection (f) of this section, in which case the producer may deliver or sell in accordance with section 2778 of this title.

(f) A producer selling more than 87.5 gallons to 350 gallons (more than 350 to 1,400 quarts) of unpasteurized milk per week shall meet the requirements of subsections (a) through (d) of this section as well as the following standards:

(1) Inspection. The Agency shall annually inspect the producer's facility and determine that the producer is in compliance with the sanitary standards listed in subsection (c) of this section.

(2) Bottling. Unpasteurized milk shall be sold in containers ~~which~~ that have been filled by the producer. Containers shall be cleaned by the producer except that the producer may allow customers to clean their own containers only if each customer's container is labeled with the customer's name and address and the customers use their own containers. Producers shall ensure that only clean bottles are filled and distributed.

(3) Testing.

(A) A producer shall have unpasteurized milk tested twice per month by a U.S. Food and Drug Administration accredited laboratory using accredited lab approved testing containers. Milk shall be tested for the following and the results shall be below these limits:

(i) total bacterial (aerobic) count: 15,000 cfu l (cattle and goats);

(ii) total coliform count: 10 cfu l (cattle and goats); and

(iii) somatic cell count: 225,000 l (cattle); 500,000 l (goats).

(B) The producer shall ensure that all test results are forwarded to the Agency, by the laboratory, upon completion of testing or within five days of receipt of the results by the producer.

(C) The producer shall keep test results on file for one year and shall post results on the farm in a prominent place that is easily visible to customers. The producer shall provide test results to the farm's customers if requested.

(D) The Secretary shall issue a warning to a producer when any two out of four consecutive, monthly tests exceed the limits. The Secretary shall have the authority to suspend unpasteurized milk sales if any three out of five

consecutive, monthly tests exceed the limits until an acceptable sample result is achieved. The Secretary shall not require a warning to the consumer based on a high test result.

(4) Registration. Each producer operating under this subsection shall register with the Agency.

(5) Reporting. On or before March 1 of each year, each producer shall submit to the Agency a statement of the total gallons of unpasteurized milk sold in the previous 12 months.

(6) Off-farm sale and delivery. The sale and delivery of unpasteurized milk is permitted ~~and shall be in compliance with~~ as provided for under section 2778 of this title.

(g) The sale of more than 350 gallons (1,400 quarts) of unpasteurized milk in any one week is prohibited.

§ 2778. SALE OR DELIVERY OF UNPASTEURIZED (RAW) MILK

(a) ~~Delivery~~ Sale or delivery of unpasteurized milk off the farm is permitted only within the State of Vermont and only of milk produced by a producer meeting the requirements of subsection 2777(f) of this chapter.

(b) ~~Delivery~~ Sale or delivery of unpasteurized milk off the farm shall conform to the following requirements:

(1) ~~Delivery shall be to a customer who has purchased milk in advance either by a one-time payment or through a subscription. Milk is purchased in advance of delivery when payment is provided prior to delivery at the customer's home or prior to commencement of the farmers' market where the customer receives delivery. Vendors shall verbally inform each customer of the need to keep milk refrigerated.~~

(2) A producer may sell or deliver unpasteurized milk directly to the customer:

(A) at the customer's home or may deliver it to the customer's home when delivery is into a refrigerated unit at the customer's home if such unit is capable of maintaining the unpasteurized milk at 40 degrees Fahrenheit or lower until obtained by the customer; or

(B) at a farmers' market, as that term is defined in section 5001 of this title, where the producer is a vendor.

(3) During delivery or storage prior to sale, unpasteurized milk shall be protected from exposure to direct sunlight.

(4) During delivery or storage prior to sale, unpasteurized milk shall be kept at 40 degrees Fahrenheit or lower at all times.

(c) A producer may contract with another individual to deliver the unpasteurized milk in accordance with this section. The producer shall be jointly and severally liable for the delivery of the unpasteurized milk in accordance with this section.

~~(d) Prior to delivery at a farmers' market under this section, a producer shall submit to the Agency of Agriculture, Food and Markets written or electronic notice of intent to deliver unpasteurized milk at a farmers' market. The notice shall:~~

~~(1) include the producer's name and proof of registration;~~

~~(2) identify the farmers' market or markets where the producer will deliver milk; and~~

~~(3) specify the day or days of the week on which delivery will be made at a farmers' market.~~

(e) A producer selling or delivering unpasteurized milk at a farmers' market under this section shall display the registration required under subdivision 2777(f)(4) of this title and the sign required under subdivision 2777(d)(6) on the farmers' market stall or stand in a prominent manner that is clearly visible to consumers.

* * * Farm-to-School; Local Food Grants * * *

Sec. 5. 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, gleanings 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.

* * * Agricultural Water Quality * * *

Sec. 6. 6 V.S.A. § 4802 is amended to read:

§ 4802. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2) “Farming” ~~shall have~~ has the same meaning as used in 10 V.S.A. § 6001(22).

(3) “Good standing” means a participant in a program administered under this chapter:

(A) does not have an active enforcement violation that has reached a final order with the Secretary; and

(B) is in compliance with all terms of a current grant agreement or contract with the Agency.

~~(3)~~(4) “Healthy soil” means soil that has a well-developed, porous structure, is chemically balanced, supports diverse microbial communities, and has abundant organic matter.

~~(4)~~(5) “Manure” means livestock waste in solid or liquid form that may also contain bedding, spilled feed, water, or soil.

~~(5)~~(6) “Secretary” means the Secretary of Agriculture, Food and Markets.

~~(6)~~(7) “Top of bank” means the point along the bank of a stream where an abrupt change in slope is evident, and where the stream is generally able to overflow the banks and enter the adjacent floodplain during an annual flood event. Annual flood event shall be determined according to the Agency of Natural Resources’ Flood Hazard Area and River Corridor Protection Procedure.

~~(7)~~(8) “Waste” or “agricultural waste” means material originating or emanating from a farm that is determined by the Secretary or the Secretary of Natural Resources to be harmful to the waters of the State, including: sediments; minerals, including heavy metals; plant nutrients; pesticides; organic wastes, including livestock waste, animal mortalities, compost, feed and crop debris; waste oils; pathogenic bacteria and viruses; thermal pollution; silage runoff; untreated ~~milkhouse~~ milk house waste; and any other farm waste as the term “waste” is defined in 10 V.S.A. § 1251(12).

~~(8)~~(9) “Water” shall has have the same meaning as used in 10 V.S.A. § 1251(13).

Sec. 7. 6 V.S.A. § 4810a is amended to read:

§ 4810a. REQUIRED AGRICULTURAL PRACTICES; REVISION

(a) ~~On or before September 15, 2016, the~~ The Secretary of Agriculture, Food and Markets shall ~~file under 3 V.S.A. § 841 a final proposal of a rule amending~~ maintain the required agricultural practices in order to improve water quality in the State, assure practices on all farms eliminate adverse impacts to water quality, and implement the small farm certification program required by section 4871 of this title. At a minimum, the ~~amendments to the~~ required agricultural practices shall:

* * *

(b) ~~On or before January 15, 2018, the~~ The Secretary of Agriculture, Food and Markets shall ~~amend by rule~~ maintain the required agricultural practices in order to include requirements for reducing nutrient contribution to waters of the State from subsurface tile drainage. Upon adoption of requirements for subsurface tile drainage, the Secretary may require an existing subsurface tile drain to comply with the requirements of the RAPs for subsurface tile drainage upon a determination that compliance is necessary to reduce adverse impacts to water quality from the subsurface tile drain.

Sec. 8. 6 V.S.A. § 4811 is amended to read:

§ 4811. POWERS OF SECRETARY

The Secretary of Agriculture, Food and Markets in furtherance of the purposes of this chapter may:

(1) Make, adopt, revise, and amend reasonable rules which define practices described in section 4810 of this title as well as other rules deemed necessary to carry out the provisions of this chapter.

(2) Appoint assistants, subject to applicable laws, to perform or assist in the performance of any duties or functions of the Secretary under this chapter.

(3) Enter any lands, public or private, and review and copy any land management records as may be necessary to carry out the provisions of this chapter.

(4) Sign memorandums of understanding between agencies when the Secretary of Agriculture, Food and Markets agrees it is necessary for the success of the program.

(5) Solicit and receive federal or private funds.

(6) Cooperate fully with the federal government or other agencies in the operation of any joint federal-state programs concerning the regulation of agricultural non-point source pollution.

(7) Establish programs to improve agricultural water quality.

(8) Provide grants or contracts from agricultural water quality programs established under this chapter, or by the Secretary of Agriculture, Food and Markets for the purpose of providing technical and financial assistance in preventing agricultural pollution from entering groundwater and waters of the State, provided that the Secretary shall only use capital funding available to the Agency for water quality programs or projects that are eligible for capital assistance.

Sec. 9. 6 V.S.A. § 4820 is amended to read:

§ 4820. DEFINITIONS

As used in this subchapter:

* * *

(6) “Good standing” means the participant:

~~(A) does not have an active enforcement violation that has reached a final order with the Secretary; or~~

~~(B) is in compliance with all terms of a current grant agreement or contract with the Agency. [Repealed.]~~

Sec. 10. 6 V.S.A. § 4828 is amended to read:

§ 4828. CAPITAL EQUIPMENT ASSISTANCE PROGRAM

(a) It is the purpose of this section to provide assistance to ~~contract applicators, nonprofit organizations, and farms~~ to purchase or use innovative equipment that will aid in the reduction of surface runoff of agricultural wastes to State waters, improve water quality of State waters, reduce odors from manure application, separate phosphorus from manure, decrease greenhouse gas emissions, and reduce costs to farmers.

(b) The capital equipment assistance program is created in the Agency of Agriculture, Food and Markets to provide ~~farms, nonprofit organizations, and custom applicators in Vermont~~ with State financial assistance for the purchase of new or innovative equipment to improve manure application, separation of phosphorus from manure, or nutrient management plan implementation.

(c) Assistance under this section shall in each fiscal year be allocated according to the following priorities and as further defined by the Secretary:

~~(1) First priority. Priority shall be given to capital equipment to be used on farm sites that are serviced by custom applicators, multiple farms; equipment to be used for phosphorus reduction, separation, or treatment equipment providers; and projects managed by nonprofit organizations and projects that are located in descending order within the boundaries of:~~

- ~~(A)(1) the Lake Champlain Basin;~~
- ~~(B)(2) the Lake Memphremagog Basin;~~
- ~~(C)(3) the Connecticut River Basin; and~~
- ~~(D)(4) the Hudson River Basin.~~

~~(2) Next priority shall be given to capital equipment to be used at a farm site that is located in descending order within the boundaries of:~~

- ~~(A) the Lake Champlain Basin;~~
- ~~(B) the Lake Memphremagog Basin;~~
- ~~(C) the Connecticut River Basin; and~~
- ~~(D) the Hudson River Basin.~~

(d) An applicant for a State grant under this section to purchase or implement phosphorus ~~removal~~ reduction, separation, or treatment technology or equipment shall pay 10 percent of the total eligible project cost. The dollar amount of a State grant to purchase or implement phosphorus ~~removal~~ reduction, separation, or treatment technology or equipment shall be equal to the total eligible project cost, less 10 percent of the total as paid by the applicant, and shall not exceed \$300,000.00.

Sec. 11. 6 V.S.A. § 4989 is amended to read:

§ 4989. CERTIFICATION OF NUTRIENT MANAGEMENT PLAN
TECHNICAL SERVICE PROVIDERS

(a) ~~On or before July 1, 2019, the~~ The Secretary of Agriculture, Food and Markets shall adopt by rule a process by which a nutrient management technical service provider shall be certified to operate within the State. The certification process shall require a nutrient management technical service provider to complete eight hours of training over each five-year period regarding:

- (1) calculating manure and agricultural waste generation;
- (2) taking soil and manure samples;
- (3) identifying and creating maps of all natural resource features;

- (4) use of erosion calculation tools;
- (5) reconciling plans using records;
- (6) use of nutrient index tools; and
- (7) requirements within the Required Agricultural Practices, Medium Farm Operation rules and general permit, and Large Farm Operation rules.

~~(b) Beginning on July 1, 2019, a nutrient management technical service provider shall not create a nutrient management plan for a farm unless certified by the Secretary of Agriculture, Food and Markets~~ Beginning 45 days after the effective date of the rule adopted by the Secretary of Agriculture, Food and Markets under subsection (a) of this section to regulate nutrient management technical service providers, a nutrient management technical service provider shall not create a nutrient management plan for a farm unless certified by the Secretary of Agriculture, Food and Markets.

* * * Environmental Stewardship Program * * *

Sec. 12. 6 V.S.A. chapter 215, subchapter 7A is added to read:

Subchapter 7A. Regenerative Farming

§ 4961. PURPOSE

The purposes of this subchapter are to:

- (1) enhance the economic viability of farms in Vermont;
- (2) improve the health and productivity of the soils of Vermont;
- (3) encourage farmers to implement regenerative farming practices;
- (4) reduce the amount of agricultural waste entering the waters of Vermont;
- (5) enhance crop resilience to rainfall fluctuations and mitigate water damage to crops, land, and surrounding infrastructure;
- (6) promote cost-effective farming practices;
- (7) reinvigorate the rural economy; and
- (8) help the next generation of Vermont farmers learn regenerative farming practices so that farming remains integral to the economy, landscape, and culture of Vermont.

§ 4962. DEFINITIONS

As used in this subchapter:

(1) “Certified Vermont Environmental Steward” means an owner or operator of a farm who has achieved the thresholds for the Vermont Environmental Stewardship Program to be certified as a farm that improves soil health and contributes to improving water quality.

(2) “Regenerative farming” means a series of cropland management practices that:

(A) contributes to generating or building soils and soil fertility and health;

(B) increases water percolation, increases water retention, and increases the amount of clean water running off farms;

(C) increases biodiversity and ecosystem health and resiliency; and

(D) sequesters carbon in agricultural soils.

§ 4963. REGENERATIVE FARMING; VERMONT ENVIRONMENTAL STEWARDSHIP PROGRAM

(a) Establishment of program. There is created within the Agency of Agriculture, Food and Markets the Vermont Environmental Stewardship Program (VESP) to provide technical and financial assistance to Vermont farmers seeking to implement regenerative farming practices to achieve certification as a Certified Vermont Environmental Steward.

(b) Program standards; application. The Secretary of Agriculture, Food and Markets shall establish by procedure standards for certification as a Certified Environmental Steward. Application for certification shall be made in the manner required by the Secretary of Agriculture, Food and Markets.

(c) Program services. The VESP shall provide the following services to farmers voluntarily seeking to transition to achieve certification as a Certified Vermont Environmental Steward:

(1) information and education regarding the requirements for certification, including the method, timeline, and process of certification;

(2) technical assistance in completing any required application for certification;

(3) technical assistance in developing plans and implementing practices to achieve certification from the VESP; and

(4) technical assistance in complying with the requirements of the VESP after a farm is certified.

(d) Financial assistance; eligibility. An owner or operator of a farm participating in the VESP shall be eligible for financial assistance from existing Agency of Agriculture, Food and Markets financial assistance programs for costs incurred in implementing any of the practices required for certification as a Certified Environmental Steward.

(e) Revocation of certification. The Secretary may, after due notice and hearing, revoke a certification issued under this section when the owner or operator of a certified farm fails to comply with the standards for certification established under subsection (b) of this section.

(f) Administrative penalty; falsely advertising. The Secretary may assess an administrative penalty of up to \$1,000.00 against the owner or operator of a farm who knowingly advertises as a Certified Environmental Steward when not certified by the Secretary.

Sec. 13. FUNDING VERMONT ENVIRONMENTAL STEWARDSHIP PROGRAM

In addition to the existing capital and noncapital financial assistance that may be available to a farmer from the Agency of Agriculture, Food and Markets, the Agency of Agriculture, Food and Markets separately may use funds available to the Agency and eligible for use for water quality programs or projects to provide noncapital financial incentives to Vermont farmers participating in the Vermont Environmental Stewardship Program to implement regenerative farming practices to achieve certification as a Certified Vermont Environmental Steward.

* * * Conservation Reserve Enhancement Program * * *

Sec. 14. 6 V.S.A. § 4829 is added to read:

§ 4829. CONSERVATION RESERVE ENHANCEMENT PROGRAM

(a) The Conservation Reserve Enhancement Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State or federal financial assistance for the implementation of alternative nutrient reduction practices that improve soil quality, improve nutrient retention, and reduce agricultural waste discharges. The Agency of Agriculture, Food and Markets may approve one or more of the following practices for participation in the program:

- (1) riparian forest buffers;
- (2) grassed waterways;
- (3) grassed filter strips; or

(4) other practices approved by the Secretary and administered through a memorandum of understanding with the Commodity Credit Corporation.

(b) Grant agreements entered into under this section shall at a minimum have a term of 15 years in duration and can include permanent easements.

(c)(1) The Agency of Agriculture, Food and Markets shall use capital funding available to the Agency and eligible for use for water quality programs or projects to provide financial assistance to Vermont farmers to complete practices approved by the Agency for participation in the program under subdivisions (a)(1)–(3) of this section.

(2) The Agency shall use noncapital funds eligible for use for water quality programs or projects to provide financial assistance to Vermont farmers to complete practices approved by the Agency for participation in the program under subdivision (a)(4) of this section.

* * * Agriculture Environmental Management Program * * *

Sec. 15. 6 V.S.A. § 4830 is added to read:

§ 4830. AGRICULTURAL ENVIRONMENTAL MANAGEMENT PROGRAM

(a) The Agricultural Environmental Management Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State financial assistance to alternatively manage their farmstead, cropland, and pasture in a manner that will address identified water quality concerns that, traditionally, would have been wholly or partially addressed through federal, State, and landowner investments in BMP infrastructure, in agronomic practices, or both. The Agency of Agriculture, Food and Markets may approve one or more of the following practices for participation in the program:

- (1) conservation easements;
- (2) land acquisition;
- (3) farm structure decommissioning;
- (4) site reclamation; or

(5) issue a grant as an in-lieu payment not to exceed \$200,000.00 as an alternative to the best management practice program implementation to otherwise address the same conservation issues for an equivalent or longer term.

(b) The Agency of Agriculture, Food and Markets shall use funds available to the Agency and eligible for use for water quality programs or projects to

provide financial assistance to Vermont farmers, provided that the Agency may use capital funds to provide financial assistance for practices approved under subdivisions (a)(1)–(4) of this section if the practice is:

(1) performed in conjunction with a term agreement of not less than 15 years in duration or a permanent easement protecting the investment; and

(2) abating a water quality resource concern on a farm; and

(3) the Agency may use capital funds to provide financial assistance for a practice approved under subdivision (a)(5) of this section only upon the approval of the State Treasurer.

* * * Emergency Environmental Remediation * * *

Sec. 16. 6 V.S.A. § 21 is amended to read:

§ 21. AUTHORITY TO ADDRESS PUBLIC HEALTH HAZARDS AND
FOOD SAFETY ISSUES

(a) As used in this section:

(1) “Adulterated” shall have the same meaning as in 18 V.S.A. § 4059 and shall include adulteration under rules adopted under 18 V.S.A. chapter 82.

(2) “Emergency” means any natural disaster, weather-related incident, health- or disease-related incident, resource shortage, plant pest outbreak, accident, or fire that poses a threat or may pose a threat, as determined by the Secretary, to health, safety, the environment, or property in Vermont.

(3) “Farm” means a site or parcel on which farming is conducted.

(4) “Farming” shall have the same meaning as in 10 V.S.A. § 6001(22).

(5) “Public health hazard” means the potential harm to the public health by virtue of any condition or any biological, chemical, or physical agent. In determining whether a health hazard is public or private, the Secretary shall consider at least the following factors:

(A) the number of persons at risk;

(B) the characteristics of the person or persons at risk;

(C) the characteristics of the condition or agent that is the source of potential harm;

(D) the availability of private remedies;

(E) the geographical area and characteristics thereof where the condition or agent that is the source of the potential harm or the receptors exists; and

(F) the policy of the Agency of Agriculture, Food and Markets as established by rule or procedure.

(6) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

(7) "Secretary" means the Secretary of Agriculture, Food and Markets.

(b) The Secretary shall have the authority to:

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

(A) Expending up to \$25,000.00 in funding from the Agency of Agriculture, Food and Markets' budget to remediate the issue when there are no other financial resources available, and the Secretary has determined the expenditure is necessary for either public health or the environment.

(B) The Secretary may attempt to recover monies expended under subdivision (b)(1)(A) of this subsection from the responsible party;

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

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

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

(B) application of the FDA Food Safety Modernization Act, Pub. L. No. 111-353, to farms, farm products, or value-added products produced in the State.

* * * Slaughter Facilities; Records * * *

Sec. 17. 6 V.S.A. § 1152 is amended to read:

§ 1152. ADMINISTRATION; INSPECTION; TESTING; RECORDS

(a) The Secretary shall be responsible for the administration and enforcement of the ~~livestock disease control program~~ Livestock Disease Control Program. The Secretary may appoint the State Veterinarian to manage the ~~program~~ Program, and other personnel as are necessary for the sound administration of the ~~program~~ Program.

(b) The Secretary shall maintain a public record of all permits issued and of all animals tested by the Agency of Agriculture, Food and Markets under this chapter for a period of five years.

(c) The Secretary may conduct any inspections, investigations, tests, diagnoses, or other reasonable steps necessary to discover and eliminate contagious diseases existing in domestic animals in this State. The Secretary shall investigate any reports of diseased animals, provided there are adequate resources. In carrying out the provisions of this part, the Secretary or his or her authorized agent may enter any real estate, premises, buildings, enclosures, or areas where animals may be found for the purpose of making reasonable inspections and tests. A livestock owner or the person in possession of the animal to be inspected, upon request of the Secretary, shall restrain the animal and make it available for inspection and testing.

(d) The Secretary may contract and cooperate with the U.S. Department of Agriculture, other federal agencies or states, and accredited veterinarians for the control and eradication of contagious diseases of animals. The Secretary shall consult and cooperate, as appropriate, with the Commissioners of Fish and Wildlife and of Health regarding the control of contagious diseases.

(e) If necessary, the Secretary shall set priorities for the use of the funds available to operate the ~~program~~ Program established by this chapter.

(f) Any commercial slaughterhouse operating in the State shall maintain and retain for three years records of the number of animals slaughtered at the facility, the physical address of origination of each animal, the date of slaughter of each animal, and all official identification numbers of slaughtered animals. A commercial slaughterhouse shall make the records required under this subsection available to the Agency upon request.

(g) Records produced or acquired by the Secretary under this chapter shall be available to the public, except that:

(1) the Secretary may withhold from inspection and copying records that are confidential under federal law; and

(2) the Secretary may withhold or redact a record to the extent needed to avoid disclosing directly or indirectly the identity of individual persons, households, or businesses.

Sec. 18. 6 V.S.A. § 1470 is added to read:

§ 1470. RECORDS

(a) A commercial slaughter facility operating in the State shall maintain and retain for three years records of the number of animals slaughtered at the facility, the physical address of origination of each animal, the date of slaughter of each animal, and all official identification numbers of slaughtered animals. A commercial slaughterhouse shall make the records required under this subsection available to the Agency upon request.

(b) Records produced or acquired by the Secretary under this chapter shall be available to the public for inspection and copying, except that:

(1) the Secretary may withhold from inspection and copying records that are confidential under federal law; and

(2) the Secretary may withhold or redact a record to the extent needed to avoid disclosing directly or indirectly the identity of individual persons, households, or businesses.

* * * Commercial Feed; Raw Milk * * *

Sec. 19. 6 V.S.A. § 329 is amended to read:

§ 329. RULES

(a) The Secretary is authorized to adopt rules establishing procedures or standards, or both, for product registration, labeling, adulteration, reporting, inspection, sampling, guarantees, product analysis, or other conditions necessary for the implementation and enforcement of this chapter. Where appropriate, the rules shall be consistent with the model rules developed by the Association of American Feed Control Officials and regulations adopted by the federal Food, Drug and Cosmetic Act (21 U.S.C. § 301 et seq.).

(b) The official definitions of feed ingredients and official feed terms adopted by the Association of American Feed Control Officials and published in the official publication of that organization, together with any regulation promulgated pursuant to the authority of the federal Food, Drug and Cosmetic Act (21 U.S.C. § 301 et seq.), relevant to the subject matter of this chapter, are hereby adopted as rules under this chapter, together with all subsequent amendments. The Secretary may, by rule, amend or repeal any rule adopted under this subsection.

(c) A person shall not manufacture or distribute raw milk as a commercial feed in the State for any species unless all of the following conditions are satisfied:

(1) the raw milk shall be decharacterized using a sufficient method to render it distinguishable from products packaged for human consumption;

(2) raw animal feed or pet food product shall be packaged in containers that are labeled “not for human consumption”;

(3) raw animal feed or pet food products shall not be stored or placed for retail sale with, or in the vicinity of, milk or milk products intended for human consumption; and

(4) notwithstanding any rule adopted under subsection (b) of this section to the contrary of the provisions of this subsection, the manufacture and distribution of raw animal feed or pet food products shall comply with the requirements of this chapter.

* * * Clean Water Fund Audit * * *

Sec. 20. 10 V.S.A. § 1389b is amended to read:

§ 1389b. CLEAN WATER FUND AUDIT

(a) On or before January 15, 2021, the Secretary of Administration shall submit to the House and Senate Committees on Appropriations, the Senate Committee on Finance, the House Committee on Ways and Means, the Senate Committee on Agriculture, the House Committee on Agriculture and Forestry, the Senate Committee on Natural Resources and Energy, and the House Committee on Natural Resources, Fish, and Wildlife a program audit of the Clean Water Fund. The audit shall include:

(1) a summary of the expenditures from the Clean Water Fund, including the water quality projects and programs that received funding;

(2) an analysis and summary of the efficacy of the water quality projects and programs funded from the Clean Water Fund or implemented by the State;

(3) an evaluation of whether water quality projects and programs funded or implemented by the State are achieving the intended water quality benefits;

(4) an assessment of the capacity of the Agency of Agriculture, Food and Markets to effectively administer and enforce agricultural water quality requirements on farms in the State; ~~and~~

(5) an assessment of the capacity of the Department of Environmental Conservation to effectively administer and enforce agricultural water quality requirements on farms in the State; and

(6) a recommendation of whether the General Assembly should authorize the continuation of the Clean Water Fund and, if so, at what funding level.

(b) The audit required by this section shall be conducted by a qualified, independent environmental consultant or organization with knowledge of the federal Clean Water Act, State water quality requirements and programs, the Lake Champlain Total Maximum Daily Load plan, and the program elements of the State clean water initiative.

(c) Notwithstanding provisions of section 1389 of this title to the contrary, the Secretary of Administration shall pay for the costs of the audit required under this section from the Clean Water Fund, established under section 1388 of this title.

* * * Pumpout Tank * * *

Sec. 21. 10 V.S.A. § 1979 is amended to read:

(b)(1) The Secretary shall approve the use of sewage holding and pumpout tanks for existing or proposed buildings or structures that are owned by a charitable, religious, or nonprofit organization when he or she determines that:

(A) the plan for construction and operation of the holding tank will not result in a public health hazard or environmental damage;

(B) a designer demonstrates that an economically feasible means of meeting current standards is significantly more costly than the construction and operation of sewage holding and pumpout tanks, based on a projected 20-year life of the project; and

(C) the design flows do not exceed 600 gallons per day or the existing or proposed building or structure shall not be used to host events on more than 28 days in any calendar year.

(2) Before constructing a holding tank permitted under this subsection, the applicant shall post a bond or other financial surety sufficient to finance maintenance of the holding tank for the life of the system, which shall be at least 20 years.

(3)(A) A permit issued under this subsection shall run with the land for the duration of the permit and shall apply to all subsequent owners of the property being served by the holding tank regardless of whether the owner is a charitable, religious, or nonprofit organization.

(B) All permit conditions, including the financial surety requirement of subdivision (2) of this subsection (b), shall apply to a subsequent owner.

(C) A subsequent owner shall not increase the design flows of the holding and pumpout tank system without approval from the Secretary.

* * * Wetlands * * *

Sec. 22. LEGISLATIVE STUDY COMMITTEE ON WETLANDS;
REPORT

(a) Creation. There is created the Legislative Study Committee on Wetlands to clarify State wetlands statutes and permitting under the statutes.

(b) Membership. The Legislative Study Committee on Wetlands shall be composed of the following members:

(1) two current members of the Senate Committee on Agriculture, who shall be appointed by the Committee on Committees;

(2) two current members of the Senate Committee on Natural Resources and Energy, who shall be appointed by the Committee on Committees;

(3) two current members of the House Committee on Agriculture and Forestry, who shall be appointed by the Speaker of the House; and

(4) two current members of the House Committee on Natural Resources, Fish and Wildlife, who shall be appointed by the Speaker of the House.

(c) Assistance. The Legislative Study Committee on Wetlands shall have the administrative, technical, and legal assistance of the Office of Legislative Council and the Joint Fiscal Office.

(d) Report. On or before January 15, 2020, the Legislative Study Committee on Wetlands shall submit a written report to the General Assembly to update and clarify the requirements for the regulation of wetlands under State statute. The Study Committee shall submit the report in the form of draft legislation and shall include:

(1) whether the definition of “wetlands” should be amended, including whether the definition of wetlands under State wetlands law should be based on objective criteria such as size or location;

(2) the standard by which the State shall review a permit application for the disturbance of a wetland or wetland buffer;

(3) proposed exemptions from regulation under State wetlands law for specific activities, including:

(A) whether land on which farming or a subset of farming is conducted should be excluded from the definition of “wetlands” subject to State regulation or should be exempt from wetlands permitting under State law; and

(B) whether the exemptions under State wetlands law should be consistent or similar to the exemptions under federal wetlands law; and

(4) proposed permitting fees for wetlands permits.

(f) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Legislative Study Committee on Wetlands to occur on or before August 1, 2019.

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

(3) A majority of the Legislative Study Committee on Wetlands shall constitute a quorum.

(4) The Legislative Study Committee on Wetlands shall cease to exist on January 15, 2020.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Legislative Study Committee on Wetlands shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 23. 3 V.S.A. § 2822(j) is amended to read:

(j) In accordance with subsection (i) of this section, the following fees are established for permits, licenses, certifications, approvals, registrations, orders, and other actions taken by the Agency of Natural Resources.

* * *

(26) For individual conditional use determinations, for individual wetland permits, for general conditional use determinations issued under 10 V.S.A. § 1272, or for wetland authorizations issued under a general permit, an administrative processing fee assessed under subdivision (2) of this subsection and an application fee of:

(A) \$0.75 per square foot of proposed impact to Class I or II wetlands.

(B) \$0.25 per square foot of proposed impact to Class I or II wetland buffers.

* * *

(H) Maximum fee, for the construction of any water quality improvement project in any Class II wetland or buffer, \$200.00 per application. As used in this subdivision, “water quality improvement project” means projects specifically designed and implemented to reduce pollutant loading in accordance with the requirements of a Total Maximum Daily Load Implementation Plan or Water Quality Remediation Plan, or pursuant to a plan for reducing pollutant loading to a waterbody. These projects include:

(i) the retrofit of impervious surfaces in existence as of January 1, 2019 for the purpose of addressing stormwater runoff;

(ii) the replacement of stream-crossing structures necessary to improve aquatic organism passage, stream flow, or flood capacity;

(iii) construction of the following conservation practices on farms, when constructed and maintained in accordance with Natural Resources Conservation Service Conservation Practice Standards for Vermont and the Agency of Agriculture, Food and Markets' Required Agricultural Practices:

(I) construction of animal trails and walkways;

(II) construction of access roads;

(III) designation and construction of a heavy-use protection area;

(IV) construction of artificial wetlands; and

(V) the relocation of structures, when necessary, to allow for the management and treatment of agricultural waste, as defined in the Required Agricultural Practices Rule.

(I) Maximum fee for the construction of a permanent structure used for farming, \$5,000.00, provided that the maximum fee for waste storage facility or bunker silo shall be \$200.00 when constructed and maintained in accordance with Natural Resources Conservation Service Conservation Practice Standards for Vermont and the Agency of Agriculture, Food and Markets' Required Agricultural Practices. As used in this subdivision, "permanent structure," "farming," and "waste storage facility" have the same meaning as in 10 V.S.A. § 902.

Sec. 24. WETLAND SCIENTIST LICENSURE REQUIREMENTS

The Agency of Natural Resources shall commence a study of potential approaches to licensing and certifying qualified wetlands scientists, including developing a set of standard qualifications required for all professional wetland scientists. On or before January 1, 2024, the Agency shall submit a report to the Legislature summarizing its findings and providing recommendations for the development of a professional certification program for wetland scientists.

* * * Effective Dates * * *

Sec. 25. EFFECTIVE DATES

(a) This section and Secs. 23 (wetlands permit fees) and 24 (wetlands scientist licensing) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2019.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 21, 2019, pages 573-576)

Reported favorably by Senator Pearson for the Committee on Finance.

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

(Committee vote: 7-0-0)

Reported favorably by Senator Starr for the Committee on Appropriations.

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

(Committee vote: 6-0-1)

H. 530.

An act relating to the qualifications and election of the Adjutant and Inspector General.

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

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

Sec. 1. 2 V.S.A. § 10 is amended to read:

§ 10. ELECTION OF STATE AND JUDICIAL OFFICERS

(a) At 10 o'clock and 30 minutes, forenoon, on the seventh Thursday after their biennial meeting and organization, the Senate and House of Representatives shall meet in joint assembly and proceed therein to elect the State officers, except judicial officers, whose election by the Constitution and laws devolves in the first instance upon them in joint assembly, including the Sergeant at Arms, ~~the Adjutant and Inspector General,~~ and the legislative trustees of the University of Vermont and State Agricultural College. In case

election of all such officers shall not be made on that day, they shall meet in joint assembly at 10 o'clock and 30 minutes, forenoon, on each succeeding day, Saturdays and Sundays excepted, and proceed in such election, until all such officers are elected.

* * *

Sec. 2. REDESIGNATION; ADDITION OF SUBCHAPTER

20 V.S.A. chapter 21, subchapter 1, which shall include 20 V.S.A. §§ 361–369, is added to read:

Subchapter 1. General Provisions

Sec. 3. 20 V.S.A. chapter 21, subchapter 2 is added to read:

Subchapter 2. Adjutant and Inspector General Nominating Board

§ 370. ADJUTANT AND INSPECTOR GENERAL NOMINATING BOARD

(a) The Adjutant and Inspector General Nominating Board is created to nominate candidates for Adjutant and Inspector General.

(b)(1) The Board shall consist of nine members who shall be selected as follows:

(A) one member appointed by the Governor, who shall not be a current member of the Vermont National Guard;

(B) one member appointed by the Executive Director of the Vermont Office of Veterans Affairs, who shall be a veteran but shall not be a current member of the Vermont National Guard;

(C) one member appointed by the Chief Justice of the Vermont Supreme Court, who shall not be a current member of the Vermont National Guard;

(D) three members of the House, not all of whom shall be members of the same party, appointed by the Speaker of the House; and

(E) three members of the Senate, not all of whom shall be members of the same party, appointed by the Committee on Committees.

(2)(A) The members of the Board shall serve for terms of two years and may serve for not more than three consecutive terms.

(B)(i) All appointments shall be made between January 15 and February 15 of each odd-numbered year, except to fill a vacancy.

(ii) Any vacancy in the membership of the Board shall be filled by the appointing authority for the remainder of the term.

(C) Members shall serve until their successors are appointed.

(3) The members shall elect their own chair who shall serve for a term of two years.

(c) Legislative members of the Board shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406. Members of the Board who are not otherwise compensated by their employer shall be entitled to per diem compensation and reimbursement for expenses in the same manner as board members are compensated under 32 V.S.A. § 1010. The compensation and reimbursement for the Board members shall be paid from the legislative appropriation.

(d) A quorum of the Board shall consist of a majority of the members.

(e) The Board may use the staff and services of the Legislative Council to, in addition to other duties, obtain information regarding candidates for Adjutant and Inspector General by soliciting comments from members of the Vermont National Guard and the public.

§ 371. DECLARATION OF CANDIDACY FOR ADJUTANT AND INSPECTOR GENERAL; REQUIREMENTS

(a)(1) All candidates for Adjutant and Inspector General shall, on or before January 15 of each even-numbered year, declare their candidacy to the Board pursuant to procedures adopted by the Board and demonstrate that they meet the qualifications set forth in subsection (b) of this section as required pursuant to procedures adopted by the Board.

(2)(A) In the case of a vacancy occurring during a term, any candidates for Adjutant and Inspector General shall, not later than 90 days after the office of Adjutant and Inspector General becomes vacant, declare their candidacy to the Board pursuant to procedures adopted by the Board and demonstrate that they meet the qualifications set forth in subsection (b) of this section as required pursuant to procedures adopted by the Board.

(B) During a vacancy in the Office of Adjutant and Inspector General, the Deputy Adjutant General shall fulfill the Duties of the Office until a new Adjutant and Inspector General is appointed by the Governor.

(b) A candidate for Adjutant and Inspector General shall:

(1) be a resident of Vermont;

(2) have attained the rank of lieutenant colonel (O-5) or above;

(3) be a current member of the U.S. Army, the U.S. Air Force, the U.S. Army Reserve, the U.S. Air Force Reserve, the Army National Guard or the Air National Guard, or be eligible to return to active service in the Army National Guard or the Air National Guard; and

(4) be a graduate of a Senior Service College or currently enrolled in a Senior Service College.

(c) As used in this section, “resident of Vermont” means an individual who is domiciled in Vermont as evidenced by an intent to maintain a principal dwelling place in Vermont indefinitely and to return to Vermont if temporarily absent, coupled with an act or acts consistent with that intent.

§ 372. PROCEDURES OF THE BOARD; CONFIDENTIALITY

(a) The Board shall endeavor to adopt all necessary forms and procedures for receiving and reviewing applications of candidates for Adjutant and Inspector General by September 30 of the first year of each biennial session.

(b) The Board’s procedures shall not be subject to rulemaking under 3 V.S.A. §§ 836–844 and may be adopted and revised at the discretion of the Board.

(c) All candidates shall have the right to a reasonable time period to prepare and present to the Board a response to any testimony or written complaint adverse to their candidacy for Adjutant and Inspector General.

(d)(1) Except as otherwise provided by subdivision (2) of this subsection:

(A) the proceedings of the Board shall be confidential and exempt from the Vermont Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2; and

(B) all records of the Board, including information related to candidates, shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(2) The following shall be public:

(A) the Board’s operating procedures;

(B) the Board’s application procedures and any application or other forms used by the Board, provided they do not contain information about a candidate or confidential proceedings;

(C) proceedings of the Board that are not directly related to the consideration of candidates;

(D) the names of the candidates; and

(E) the list of well-qualified candidates submitted to the Governor by the Board.

§ 373. DUTIES OF NOMINATING BOARD

(a) Evaluation. In determining whether a candidate for Adjutant and Inspector General should be submitted to the Governor for consideration, the Board shall do the following:

(1) Interview the candidate for Adjutant and Inspector General.

(2) Hold a hearing to receive information and hear testimony in relation to the candidates.

(3) Review comments received in relation to the candidate from members of the Vermont National Guard and the public. The Board may, in its discretion, conduct interviews or seek additional information related to comments received in relation to a candidate.

(4) Determine whether the candidate is well qualified for appointment by the Governor based on the candidate's application materials and interview, and any comments and related information received in relation to the candidate. The Board shall evaluate whether each candidate is well qualified based on:

(A) whether the candidate satisfies the qualifications set forth in subsection 371(b) of this chapter; and

(B) the candidate's leadership; integrity; and administrative and communication skills.

(b) Nomination. After interviewing and evaluating each of the candidates, the Board shall submit to the Governor a list of all well qualified candidates for Adjutant and Inspector General.

Sec. 4. 20 V.S.A. § 363 is amended to read:

§ 363. OFFICERS GENERALLY

(a)(1) ~~The General Assembly shall biennially elect~~ On or before April 15 of the second year of each biennial session, the Governor shall appoint, with the advice and consent of the Senate and from a list of candidates submitted by the Adjutant and Inspector General Nominating Board, an Adjutant and Inspector General, ~~who~~ for a term of two years.

(2) An Adjutant and Inspector General appointed to fill a vacancy occurring during a term shall serve the remainder of the unexpired term.

(3)(A) The Adjutant and Inspector General shall, at all times during the term of office satisfy the requirements set forth in 20 V.S.A. § 371(b).

(b) The Adjutant and Inspector General shall also be Quartermaster General with the rank of a major general.

(c)(1) The Adjutant General may appoint a ~~deputy~~ Deputy with ~~appropriate rank,~~ the approval of the Governor. The Adjutant General may also appoint an Assistant Adjutant General for Army, an Assistant Adjutant General for Air, an Assistant Adjutant General for Joint Operations, a Sergeant Major, and a Chief Master Sergeant, without pay, with the approval of the Governor.

(2) The Adjutant and Inspector General may remove the appointed assistant adjutant generals and sergeants and shall be responsible for their acts.

(3) Upon appointment, each Assistant Adjutant General shall be a federally recognized officer of the National Guard of the rank of lieutenant colonel or above, and shall have a rank of colonel or brigadier general, and the Sergeant Major shall be a federally recognized noncommissioned officer of the National Guard of the rank of master sergeant or first sergeant or above, and the Chief Master Sergeant shall be a federally recognized noncommissioned officer of the rank of senior master sergeant or first sergeant.

(4) The Deputy, ~~Assistants~~ assistants, and ~~Sergeants~~ sergeants shall perform duties as the Adjutant and Inspector General and ~~Quartermaster General~~ shall direct.

(d)(1) In the absence or disability of the ~~officer~~ Adjutant and Inspector General, the Deputy shall perform the duties of that office.

(2) In case a vacancy occurs in the office of Adjutant and Inspector General and ~~Quartermaster General~~, the Deputy shall assume and discharge the duties of the office until the vacancy is filled.

(e) ~~The appointments~~ Appointments made pursuant to subsections (a) and (c) of this section shall be in writing and recorded in the ~~office~~ Office of the Secretary of State.

(f) All other officers of the National Guard shall be chosen in accordance with rules adopted by the Governor consistent with the laws of this State and the United States.

Sec. 5. ADJUTANT AND INSPECTOR GENERAL; CURRENT TERM

Notwithstanding any provision of law to the contrary, the term of the Adjutant and Inspector General in office on the effective date of this act shall end on April 15, 2022.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

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

An act relating to the qualifications and appointment of the Adjutant and Inspector General.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for March 22, 2019, pages 646-647)

Reported favorably by Senator Kitchel for the Committee on Appropriations.

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

(Committee vote: 6-0-1)

House Proposals of Amendment

S. 18

An act relating to consumer justice enforcement.

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

Sec. 1. 9 V.S.A. chapter 152 is added to read:

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

§ 6051. UNCONSCIONABLE TERMS IN STANDARD-FORM
CONTRACTS PROHIBITED

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

(1) A requirement that resolution of legal claims takes place in an inconvenient venue. As used in this subdivision, "inconvenient venue" for State law claims means a place other than the state in which the individual resides or the contract was consummated, and for federal law claims means a place other than the federal judicial district where the individual resides or the

contract was consummated. Notwithstanding this subdivision, a standard-form contract may include a term requiring that resolution of legal claims takes place in a State or federal court in Vermont.

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

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

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

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

(c) Severability.

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

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

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

(2) In performing its analysis under this subsection (c), the court may consider the actual purposes of the contracting parties and whether severing the term would create an incentive for contract drafters to include similar illegal or unconscionable terms.

(d) Unfair and deceptive act and practice.

(1) In an underlying legal dispute between the drafting and nondrafting parties in which the drafting party seeks to enforce one or more terms identified in subsection (a) of this section, and upon a finding that such terms are actually unconscionable, the court may also find that the drafting party has thereby committed an unfair and deceptive practice in violation of section

2453 of this title and may order up to \$1,000.00 in statutory damages per violation and an award of reasonable costs and attorney's fees.

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

(e) Limitation on applicability. This section shall not apply to the following contracts:

(1) A contract to which one party is:

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

(B) a financial institution as defined by 8 V.S.A. § 11101(32) or a credit union as defined by 8 V.S.A. § 30101(5).

(2) A contract for the nondrafting party's enrollment or participation in a recreational activity, sport, or competition.

(3) A motor vehicle retail installment contract subject to chapter 59 of this title.

Sec. 2. EFFECTIVE DATE

This act shall take effect on October 1, 2020.

S. 31

An act relating to informed health care financial decision making.

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

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.

S. 58

An act relating to the State hemp program.

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

Sec. 1. 6 V.S.A. chapter 34 is amended to read:

CHAPTER 34. HEMP

§ 561. FINDINGS; INTENT

(a) Findings.

* * *

(5) ~~The federal Agricultural Act of 2014, Pub. L. No. 113-79 authorized Section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334 authorizes the growing, cultivation, and marketing of industrial hemp, notwithstanding restrictions under the federal Controlled Substances Act, if certain criteria are satisfied under a U.S. Department of Agriculture approved State program.~~

(b) Purpose. The intent of this chapter is to establish policy and procedures for growing, processing, testing, and marketing hemp and hemp products in Vermont that comply with federal law so that farmers and other businesses in

the Vermont agricultural industry can take advantage of this market opportunity.

§ 562. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Agriculture, Food and Markets.

(2)(A) “Grow” means:

(i) planting, cultivating, harvesting, or drying of hemp; and

(ii) selling, storing, and transporting hemp grown by a grower.

(B) “Grow” may be used interchangeably with the word “produce.”

(3) “Grower” means a person who is registered with the Agency to produce hemp crops.

(4) “Hemp products” or “hemp-infused products” means all products made from hemp with the federally defined tetrahydrocannabinol concentration level for hemp derived from, or made by, processing hemp plants or plant parts, that are prepared in a form available for commercial sale, including cosmetics, personal care products, food intended for animal or human consumption, cloth, cordage, fiber, food, fuel, paint, paper, construction materials, plastics, seed, seed meal, seed oil, and certified seed for cultivation and any product containing one or more hemp-derived cannabinoids, such as cannabidiol.

~~(3)~~(5) “Hemp” or “industrial hemp” means the plant Cannabis sativa L. and any part of the plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis including the seeds and all derivatives, extracts, cannabinoids, acids, salts, isomers, and salts of isomers, whether growing or not, with the federally defined tetrahydrocannabinol concentration level of hemp. “Hemp” shall be considered an agricultural commodity.

(6) “Process” means the storing, drying, trimming, handling, compounding, or converting of a hemp crop by a processor for a single grower or multiple growers into hemp products or hemp-infused products. “Process” includes transporting, aggregating, or packaging hemp from a single grower or multiple growers.

(7) “Processor” means a person who is registered with the Agency to process hemp crops. A retail establishment selling hemp products or hemp-infused products is not a processor.

~~(4)~~(8) “Secretary” means the Secretary of Agriculture, Food and Markets.

§ 563. HEMP; AN AGRICULTURAL PRODUCT

Industrial hemp is an agricultural product that may be grown as a crop produced, possessed, marketed, and commercially traded in Vermont pursuant to the provisions of this chapter and section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334. The cultivation of industrial hemp shall be subject to and comply with the required agricultural practices adopted under section 4810 of this title.

§ 564. STATE HEMP PROGRAM; REGISTRATION; APPLICATION;
ADMINISTRATION; PILOT PROJECT

~~(a) The Secretary shall establish a pilot program to research the growth, cultivation, and marketing of industrial hemp. Under the pilot program, the Secretary shall register persons who will participate in the pilot program through growing or cultivating industrial hemp. The Secretary shall certify the site where industrial hemp will be cultivated by each person registered under this chapter. A person who intends to participate in the pilot program and grow industrial hemp shall register with the Secretary and submit on a form provided by the Secretary the following:~~

~~(1) the name and address of the person;~~

~~(2) a statement that the seeds obtained for planting are of a type and variety that do not exceed the maximum concentration of tetrahydrocannabinol set forth in subdivision 562(3) of this title; and~~

~~(3) the location and acreage of all parcels sown and other field reference information as may be required by the Secretary.~~

~~(b) The form provided by the Secretary pursuant to subsection (a) of this section shall include a notice statement that:~~

~~(1) cultivation and possession of industrial hemp in Vermont is a violation of the federal Controlled Substances Act unless the industrial hemp is grown, cultivated, or marketed under a pilot program authorized by section 7606 of the federal Agricultural Act of 2014, Pub. L. No. 113-79;~~

~~(2) federal prosecution for growing hemp in violation of federal law may include criminal penalties, forfeiture of property, and loss of access to federal agricultural benefits, including agricultural loans, conservation programs, and insurance programs; and~~

~~(3) registrants may purchase or import hemp genetics from any state that complies with federal requirements for the cultivation of industrial hemp.~~

~~(c) A person registered with the Secretary pursuant to this section shall allow industrial hemp crops, throughout sowing, growing season, harvest,~~

~~storage, and processing, to be inspected and tested by and at the discretion of the Secretary or designee. The Secretary shall retain tests and inspection information collected under this section for the purposes of research of the growth and cultivation of industrial hemp.~~

~~(d) The Secretary may assess an annual registration fee of \$25.00 for the performance of his or her duties under this chapter. The Secretary shall establish and administer a State Hemp Program to regulate the growing, processing, testing, and marketing of industrial hemp and hemp products in the State.~~

(b)(1) A person shall register annually with the Secretary as part of the State Hemp Program in order to grow, process, or test hemp or hemp products in the State. A person shall apply for registration or renewal of a registration on a form provided by the Secretary. The application shall be accompanied by the fee required under section 570 of this title. The application or renewal form shall include:

(A) the name and address of the person applying for or renewing a registration;

(B) whether the person is applying to grow, process, or test hemp or hemp products;

(C) for a person applying as a grower:

(i) the location and acreage of all parcels where hemp will be grown;

(ii) a statement that the seeds obtained for planting are of a type and variety that do not exceed the federally defined tetrahydrocannabinol concentration level of hemp;

(D) for a person applying as a processor, the location of the processing site;

(E) for a person applying to test hemp or hemp products, the location of the site where testing will occur and any proof of certification required by the Secretary; and

(F) any additional information that the Secretary may require by rule.

(2) The Secretary may verify the information provided in the application or renewal form under subdivision (1) of this subsection and on any maps accompanying the application or renewal form and may request additional information in order to perform a review of an application for registration or renewal.

(c) The Secretary may deny an application for registration or renewal if the applicant:

(1) does not provide all the information requested on the application or renewal form;

(2) fails to submit the fee required under section 570 of this title;

(3) fails to submit additional information requested by the Secretary under subsection (a) of this section; or

(4) does not, as determined by the Secretary, satisfy the requirements of section 10113 of the Agriculture Improvement Act of 2018, Pub. L. No. 115-334 for participation in the Program.

(d) A person registered under this section may purchase or import hemp genetics from any state that complies with the federal requirements for the cultivation of industrial hemp.

(e) A person registered with the Secretary under this section to grow, process, or test hemp crops or hemp products, shall allow the Secretary to inspect hemp crops, processing sites, or laboratories registered under the State Hemp Program. The Secretary shall retain tests and inspection information collected under this section for the purposes of research of the growth and cultivation of industrial hemp.

(f) The name and general location of a person registered under this section shall be available for inspection and copying under the Public Records Act, provided that all records produced or acquired by the Agency of Agriculture, Food and Markets related to the location of parcels where hemp will be grown, including coordinates, maps, and parcel identifiers, shall be confidential and shall not be disclosed for inspection and copying under the Public Records Act.

§ 566. RULEMAKING AUTHORITY

(a) The Secretary may adopt rules to provide for the implementation of this chapter and the ~~pilot project~~ program authorized under this chapter, which may include rules to:

(1) require hemp to be tested during growth for tetrahydrocannabinol levels;

(2) authorize or specify the method or methods of testing hemp, including, where appropriate, the ratio of cannabidiol to tetrahydrocannabinol levels or a taxonomic determination using genetic testing; and

~~(3) to require inspection and supervision of hemp during sowing, growing season, harvest, storage, and processing. The Secretary shall not adopt under this or any other section a rule that would prohibit a person to grow hemp based on the legal status of hemp under federal law; and~~

(4) require labels or label information for hemp products in order to provide consumers with product content or source information or to conform with federal requirements.

(b) The Secretary shall adopt rules establishing how the Agency of Agriculture, Food and Markets will conduct research within the pilot program for industrial hemp.

(c) The Secretary shall adopt rules establishing requirements for the registration of processors of hemp and hemp-infused products.

* * *

§ 568. TEST RESULTS; ENFORCEMENT

(a) If the Secretary or a dispensary registered under 18 V.S.A. chapter 86 tests a hemp crop and the hemp has a delta-9 tetrahydrocannabinol concentration of more than 0.3 percent on a dry weight basis, the person registered with the Secretary as growing the hemp crop shall:

(1) enter into an agreement with a dispensary registered under 18 V.S.A. chapter 86 for the separation of the delta-9 tetrahydrocannabinol from the hemp crop, return of the hemp crop to the person registered with the Secretary, and retention of the separated delta-9 tetrahydrocannabinol by the dispensary;

(2) sell the hemp crop to a dispensary registered under 18 V.S.A. chapter 86; or

(3) arrange for the Secretary to destroy or order the destruction of the hemp crop.

~~(b) A person registered with the Secretary as growing the hemp crop shall not be subject to civil, criminal, or administrative liability or penalty under 18 V.S.A. chapter 84 if the tested industrial hemp has a delta-9 tetrahydrocannabinol concentration of one percent or less on a dry weight basis~~ To enforce the provisions of this chapter, the Secretary, upon presenting appropriate credentials, may conduct one or more of the following:

(1) Enter upon any premises where hemp is grown or processed and inspect premises, machinery, equipment and facilities, any crop during any growth phase, or any hemp product or hemp-infused product during processing or storage. Inspection under this section may include the taking of samples, inspection of records, and inspection of equipment or vehicles used in the

growing, processing, or transport of hemp crops, hemp products, or hemp-infused products.

(2) Inspect any retail location offering hemp products or hemp-infused products. Inspection under this section may include the taking of samples of such products.

(3) Issue and enforce a written or printed “stop sale” order to the owner or custodian of any hemp crop, hemp product, or hemp-infused product subject to the requirements of this chapter or rules adopted under this chapter that the Secretary finds is in violation of any of the provisions of this chapter or rules adopted under this chapter. An order may prohibit further sale, processing, and movement of the hemp crop, hemp product, or hemp-infused product until the Secretary has approved and issued a release from the “stop sale” order.

(c) A crop or product confirmed by the Secretary to meet the definition of hemp under State or federal law may be sold or transferred in interstate commerce to the extent authorized by federal law.

§ 569. ADMINISTRATIVE PENALTIES

(a) Except for violations set forth under subsection (b) of this section, the Secretary may assess an administrative penalty, not to exceed \$1,000.00 per violation, for any violation of this chapter or rules adopted under this chapter, including:

(1) failure to provide the location of the land on which the grower grows hemp crops or the processor processes hemp crops into hemp products or hemp-infused products; or

(2) failing to obtain a registration in accordance with section 570 of this title.

(b) The Secretary may assess an administrative penalty, not to exceed \$5,000.00 per violation in any case in which the Secretary determines that a grower or processor:

(1) failed to follow a corrective action plan to correct a negligent violation;

(2) has grown or processed hemp in violation of the requirements of this chapter or the rules adopted under this chapter three times in a five-year period; or

(3) has produced hemp in violation of the requirements of this chapter or the rules adopted under this chapter with a culpable mental state greater than negligence.

(c) In determining the amount of the penalty assessed under this section, the Secretary may give consideration to the appropriateness of the penalty with respect to the size of the business being assessed, the gravity of the violation, the good faith of the person alleged to be in violation, and the overall compliance history of the person alleged to be in violation.

(d) The Secretary shall use the following procedure in assessing penalties:

(1) the Secretary shall issue a written notice of violation setting forth facts that would establish probable cause that a violation of this chapter or the rules adopted under this chapter has occurred;

(2) the notice required under subdivision (1) of this subsection shall comply with all of the following:

(A) The notice shall be served by personal service or by certified mail, return receipt requested.

(B) The notice shall advise the recipient of the right to a hearing. If a hearing is requested, the hearing shall be conducted pursuant to 3 V.S.A. chapter 25.

(C) The notice shall state the proposed penalty and shall advise the recipient that, if no hearing is requested, the decision of the Secretary shall become final and a penalty shall be imposed.

(D) The notice shall advise the recipient that they shall have 15 days from the date on which notice is received to request a hearing.

(e) Any party aggrieved by a final decision of the Secretary may appeal to a Superior Court within 30 days of the final decision of the Secretary. The Secretary may enforce a final administrative penalty by filing a civil collection action in any District or Superior Court.

§ 570. REGISTRATION FEES

(a) A person applying for a registration or renewal under section 564 of this title annually shall pay the following fees:

(1) for an application to grow less than 0.5 acres of hemp for personal use: \$25.00;

(2) for an application or renewal of registration to grow or process hemp seed for food oil production, grain crop, fiber, or textile: \$100.00;

(3) except as provided for in subdivision (4) of this subsection, for an application or renewal of registration to grow, process, or grow and process hemp commercially for floral material production, viable seed, or cannabinoids, including cannabidiolic acid (CBDA), cannabidiol (CBD),

cannabinol (CBN), cannabigerol (CBG), cannabichromene (CBC), or tetrahydrocannabivarin (THCV), the following fee based on the greater of the number of acres planted or the weight of hemp or viable seed processed:

<u>Acres of Hemp Grown or Pounds of Hemp Processed or Viable Seed Cultivated Annually for Floral Material or Cannabinoids</u>	<u>Fee</u>
<u>Less than 0.5 acres or less than 500 pounds</u>	<u>\$100.00</u>
<u>0.5 to 9.9 acres or less than 10,000 pounds</u>	<u>\$500.00</u>
<u>10 to 50 acres or less than 50,000 pounds</u>	<u>\$1,000.00</u>
<u>Greater than 50 acres or greater than 50,000 pounds</u>	<u>\$3,000.00</u>

(4) for an application or renewal of registration to operate exclusively within an indoor facility in order to grow, process, or grow and process hemp commercially for floral material production, viable seed, or cannabinoids, including cannabidiolic acid (CBDA), cannabidiol (CBD), cannabinol (CBN), cannabigerol (CBG), cannabichromene (CBC), or tetrahydrocannabivarin (THCV), the following fee based on the size of the indoor facility:

(A) for a facility with an area of 500 square feet or less: \$1,000.00;
and

(B) for a facility with an area greater than 500 square feet: \$2,000.00.

(5) for an application or renewal of registration as a laboratory certified to conduct testing of hemp and hemp products as part of the Agency's cannabis control program: \$1,500.00.

(b) A person registered to grow, process, or grow and process hemp for floral material production, viable seed, or cannabinoids shall not grow more acres of hemp per year than the amount identified in a registration without first notifying the Secretary and paying an additional registration fee if necessary under subsection (a) of this section.

(c) The registration fees collected under this section shall be deposited in the special fund created by subsection 364(e) of this title and shall be used for the administration of the requirements of this chapter.

Sec. 2. TRANSITION; COLLECTION OF REGISTRATION FEE

Beginning on January 1, 2020, the Secretary of Agriculture, Food and Markets shall initiate collection under 6 V.S.A. § 570 of the registration fees to grow hemp, process hemp, grow and process hemp, or operate a certified laboratory to test hemp in the State. Prior to January 1, 2020, the Secretary of Agriculture, Food and Markets shall collect a registration fee of \$25.00 for any registration under 6 V.S.A. chapter 34 (State Hemp Program).

Sec. 3. 20 V.S.A. § 2730 is amended to read:

§ 2730. DEFINITIONS

(a) As used in this subchapter, “public building” means:

(1)(A) a building owned or occupied by a public utility, hospital, school, house of worship, convalescent center or home for elders or persons who have an infirmity or a disability, nursery, kindergarten, or child care;

(B) a building in which two or more persons are employed, or occasionally enter as part of their employment or are entertained, including private clubs and societies;

(C) a cooperative or condominium;

(D) a building in which people rent accommodations, whether overnight or for a longer term;

(E) a restaurant, retail outlet, office or office building, hotel, tent, or other structure for public assembly, including outdoor assembly, such as a grandstand;

(F) a building owned or occupied by the State of Vermont, a county, a municipality, a village, or any public entity, including a school or fire district; or

(G)(i) a building in which two or more persons are employed, or occasionally enter as part of their employment, and where the associated extraction of plant botanicals utilizing flammable, volatile, or otherwise unstable liquids, pressurized gases, or other substances capable of combusting or whose properties would readily support combustion or pose a deflagration hazard; and

(ii) notwithstanding subdivision (b)(3) of this section, a building on a working farm or farms that meets the criteria of subdivision (G)(i) of this subsection is a “public building.”

(2) Use of any portion of a building in a manner described in this subsection shall make the entire building a “public building” for purposes of

this subsection. For purposes of this subsection, a “person” does not include an individual who is directly related to the employer and who resides in the employment-related building.

(b) The term “public building” does not include:

* * *

(3) Farm buildings on a working farm or farms. For purposes of this subchapter and subchapter 3 of this chapter, the term “working farm or farms” means farms with fewer than the equivalent of 10 full-time employees who are not family members and who do not work more than 26 weeks a year. In addition, the term means a farm or farms:

(A) Whose owner is actively engaged in farming.

(B) If the farm or farms are owned by a partnership or a corporation, one that includes at least one partner or principal of the corporation who is actively engaged in farming.

(C) Where the farm or farms are leased, the lessee is actively engaged in farming. The term “farming” means:

(i) the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops;

(ii) the raising, feeding, or management of livestock, poultry, equines, fish, or bees;

(iii) the production of maple syrup;

(iv) the operation of greenhouses;

(v) the on-site storage, preparation, and sale of agricultural products principally produced on the farm. Notwithstanding this definition of farming, housing provided to farm employees other than family members shall be treated as rental housing and shall be subject to the provisions of this chapter. In addition, any farm building that is open for public tours and for which a fee is charged for those tours shall be considered a public building.

(4) A single family residence with an accessory dwelling unit as permitted under 24 V.S.A. § 4406(4)(D).

* * *

Sec. 4. POSITIONS; STATE HEMP PROGRAM

The establishment of the following new classified, full-time positions is authorized in fiscal year 2020 for purposes of implementing and administering the State Hemp Program under 6 V.S.A. chapter 34:

(1) In the Agency of Agriculture, Food and Markets—attorney counsel position.

(2) In the Agency of Agriculture, Food and Markets—laboratory and certification specialist.

(3) In the Agency of Agriculture, Food and Markets—enforcement specialist.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

S. 73

An act relating to licensure of ambulatory surgical centers.

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

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 the Hospital Licensing Fees Special Fund 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. 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.

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 shall include net patient revenues and 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 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.

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.

S. 96

An act relating to the provision of water quality services.

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

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

~~(D)~~(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. 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.

* * *

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~~

~~(I) 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. 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.

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. 10a. REPORT OF SECRETARY OF ADMINISTRATION;
WATER QUALITY PROJECTS ON FARMS

On or before January 15, 2020, the Secretary of Administration, as the chair of the Clean Water Board, shall, after consultation with the Secretary of Natural Resources and the Secretary of Agriculture, Food and Markets, submit to the House Committees on Natural Resources, Fish, and Wildlife and on Agriculture and Forestry and the Senate Committees on Natural Resources and Energy and on Agriculture a report regarding the administration and funding of water quality projects on farms as part of the Clean Water Initiative. The report shall include recommendations on:

(1) how farmers can maximize access to funding for water quality projects on farms, including funding available through grants authorized under 10 V.S.A chapter 37, subchapter 5;

(2) how the Agency of Agriculture, Food and Markets should be involved in water quality projects on farms, including how the Agency of Agriculture, Food and Markets would give approval of, be notified of, or participate in water quality projects on farms funded by a clean water service provided under 10 V.S.A. chapter 37, subchapter 5;

(3) how to minimize duplication of effort, administration, and oversight between the Agency of Agriculture, Food and Markets and clean water service providers regarding water quality projects on farms; and

(4) how to most efficiently and effectively fund water quality projects on farms, including how to ensure the continued functionality of projects after construction or implementation.

Sec. 11. EFFECTIVE DATE

This act shall take effect on July 1, 2019.

S. 112

An act relating to earned good time.

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

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 “reinstitute 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.

Proposal of amendment to House proposal of amendment to S. 112 to be offered by Senators Sears, Baruth, Benning, Nitka and White

Senators Sears, Baruth, Benning, Nitka and White move that the Senate concur with the House proposal of amendment, with a further proposal of amendment as follows:

By striking out 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;

(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; and

(C) complies with a merit-based system designed to incentivize offenders to meet milestones identified by the Department that prepare offenders for reentry, if the offender has received a sentence of greater than one year.

(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. EXTRAORDINARY 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 extraordinary 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 extraordinary 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 presumption of parole may be rebutted and what standard would be used 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; EXTRAORDINARY GOOD TIME; REPORT

(a) 28 V.S.A. § 819 (extraordinary 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 extraordinary 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 an extraordinary good time sentence reduction and the basis for each reduction; and

(B) an evaluation of the program and any recommended changes.

Sec. 8. JOINT LEGISLATIVE JUSTICE OVERSIGHT COMMITTEE; 2019 INTERIM MEETINGS

Notwithstanding 2 V.S.A. § 801(d), the Joint Legislative Justice Oversight Committee may meet up to 10 times during adjournment between the 2019 and 2020 legislative sessions.

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

S. 131

An act relating to insurance and securities.

The House proposes to the Senate to amend the bill 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) 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.

(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 ~~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. [Deleted.]

* * *

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

* * *

* * * Financial Services Education and Victim Restitution
Special Fund * * *

Sec. 17. REPEAL; FINANCIAL SERVICES EDUCATION AND
TRAINING SPECIAL FUND

9 V.S.A. § 5601(e), establishing the Financial Services Education and Training Special Fund, is repealed.

Sec. 17a. 9 V.S.A. § 5616 is added to read:

§ 5616. VERMONT FINANCIAL SERVICES EDUCATION AND VICTIM
RESTITUTION SPECIAL FUND

(a) Purpose. The purpose of this section is to provide:

(1) funds for the purposes specified in subsection 5601(d) of this title;
and

(2) restitution assistance to victims of securities violations who:

(A) 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;

(B) have not received the full amount of restitution ordered before the application for restitution assistance is due; and

(C) 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 Vermont Financial Services Education and 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 Commissioner 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) Vermont Financial Services Education and Victim Restitution Special Fund. The Vermont Financial Services Education and 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 and in subsection 5601(d) of this title. All monies received by the State for use in financial services education initiatives pursuant to subsection 5601(d) of this title or in providing uncompensated victims restitution pursuant to this section shall be deposited into the Fund. The Commissioner 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.

(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.

House Proposals of Amendment to Senate Proposals of Amendment

H. 132

An act relating to adopting protections against housing discrimination for victims of domestic and sexual violence

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

By striking out Secs. 5–9 and their reader assistances in their entireties and by renumbering the remaining section to be numerically correct.

H. 518

An act relating to fair and impartial policing

The House concurs in the Senate proposal of amendment with further amendment thereto as follows:

By striking out Sec. 2 in its entirety and by renumbering the remaining sections to be numerically correct.

CONFIRMATIONS

The following appointments will be considered by the Senate, as a group, under suspension of the Rules, as moved by the President *pro tempore*, for confirmation together and without debate, by consent thereby given by the Senate. However, upon request of any senator, any appointment may be singled out and acted upon separately by the Senate, with consideration given to the report of the Committee to which the appointment was referred, and with full debate; and further, all appointments for the positions of Secretaries of Agencies, Commissioners of Departments, Judges, Magistrates, and members of the Public Utility Commission shall be fully and separately acted upon.

Lindsay H. Kurrle of Middlesex – Commissioner, Department of Labor – By Sen. Clarkson for the Committee on Economic Development, Housing and General Affairs. (5/1/19)

Kenneth A. Schatz of South Burlington – Commissioner, Department for Children and Families – By Sen. Ingram for the Committee on Health and Welfare. (5/3/19)

Joan Nagy of Cambridge – Member, Human Rights Commission – By Sen. Benning for the Committee on Judiciary. (5/14/19)