

Senate Calendar

FRIDAY, MARCH 13, 2020

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ACTION CALENDAR

CONSIDERATION POSTPONED UNTIL MARCH 17, 2020

Second Reading

Favorable with Recommendation of Amendment

S. 265.

An act relating to the use of food residuals for farming.

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

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

Sec. 1. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

In this chapter:

* * *

(3)(A) “Development” means each of the following:

* * *

(D) The word “development” does not include:

(i) The construction of improvements for farming, logging, or forestry purposes below the elevation of 2,500 feet.

* * *

(vii) The construction of improvements below the elevation of 2,500 feet for the onsite storage, preparation, and sale of compost, provided that one of the following applies:

* * *

(III) The compost is principally used on the farm where it was produced.

* * *

(22) “Farming” means:

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

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

(C) the operation of greenhouses; or

(D) the production of maple syrup; or

(E) the on-site storage, preparation, and sale of agricultural products principally produced on the farm; or

(F) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or

(G) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines; or

(H) the importation of up to 2,000 cubic yards per year or less of food residuals or food processing residuals onto a farm for the production of compost, provided that:

(i) the compost is principally used on the farm where it is produced; or

(ii) the compost is produced on a small farm that raises or manages poultry.

* * *

(38) “Farm” means, for the purposes of subdivision (22)(H) of this section, a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming that meets the threshold criteria as established under the Required Agricultural Practices.

(39) “Food processing residuals” means the remaining organic material from a food processing plant and may include whey and other dairy, cheese making, and ice cream residuals or residuals from any food manufacturing process excluding livestock or poultry slaughtering and rendering operations. “Food processing residuals” does not include food residuals from markets, groceries, or restaurants.

(40) “Food residuals” has the same meaning as in section 6602 of this title.

(41) “Principally used” means, for the purposes of subdivision (3)(D)(vii)(III) or (22)(H) of this section, that more than 50 percent, either by volume or weight, of the compost produced on the farm is physically and

permanently incorporated into the native soils on the farm as a soil enhancement and is not removed or sold at any time thereafter.

(42) “Small farm” has the same meaning as in 6 V.S.A. § 4871.

Sec. 2. Section 2 of the Agency of Agriculture, Food and Markets,
Vermont Required Agricultural Practices Rule for the Agricultural
Nonpoint Source Pollution Control Program is amended to read:

Section 2. Definitions

* * *

2.16 Farming means:

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

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

(c) the operation of greenhouses; or

(d) the production of maple syrup; or

(e) the on-site storage, preparation, and sale of agricultural products principally produced on the farm; or

(f) the on-site storage, preparation, production, and sale of fuel or power from agricultural products or wastes principally produced on the farm; or

(g) the raising, feeding, or management of four or more equines owned or boarded by the farmer, including training, showing, and providing instruction and lessons in riding, training, and the management of equines; or

(h) the importation of up to 2,000 cubic yards per year or less of food residuals or food processing residuals onto a farm for the production of compost, provided that:

(i) the compost is principally used on the farm where it is produced; or

(ii) the compost is produced on a small farm that raises or manages poultry.

* * *

2.44 “Food residual” means source separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable, in a manner consistent with 10 V.S.A. § 6605k. Food residual may include preconsumer and postconsumer food scraps. “Food residual” does not mean

meat and meat-related products when the food residuals are composted by a resident on site.

2.45 “Principally used” means that more than 50 percent, either by volume or weight, of the compost produced on the farm is physically and permanently incorporated into the native soils on the farm as a soil enhancement and is not removed or sold at any time thereafter.

Sec. 3. 6 V.S.A. chapter 218 is added to read:

CHAPTER 218. AGRICULTURAL RESIDUALS MANAGEMENT

§ 5131. PURPOSE

The purpose of this chapter is to establish a program for the management of residual wastes generated, imported to, or managed on a farm for farming in Vermont.

§ 5132. DEFINITIONS

As used in this chapter:

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

(2) “Compost” means a stable humus-like material produced by the controlled biological decomposition of organic matter through active management, but shall not mean sewage, septage, or materials derived from sewage or septage.

(3) “Farm” means a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming that meets the threshold criteria for regulation under the Required Agricultural Practices.

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

(5) “Food processing residuals” means the remaining organic material from a food processing plant and may include whey and other dairy, cheese making, and ice cream residuals or residuals from any food manufacturing process excluding livestock or poultry slaughtering and rendering operations. “Food processing residuals” do not include food residuals from markets, groceries, or restaurants.

(6) “Food residuals” means source separated and uncontaminated material that is derived from processing or discarding of food and that is recyclable or compostable. “Food residuals” may include preconsumer and postconsumer food scraps. “Food residuals” include meat and meat-related products when the disposition of the products is managed on a farm.

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

(8) “Source separation” has the same meaning as in 10 V.S.A. § 6602.

§ 5133. FOOD RESIDUALS; RULEMAKING

(a) The Secretary shall regulate the importation of food residuals or food processing residuals onto a farm.

(b)(1) The Secretary shall adopt by rule requirements for the management of food residuals and food processing residuals on a farm. The rules may include requirements regarding:

(A) the proper composting of food residuals or food processing residuals;

(B) destruction of pathogens in food residuals, food processing residuals, or compost;

(C) prevention of public health threat from food residuals, food processing residuals, or compost;

(D) protection of natural resources or the environment; and

(E) prevention of objectionable odors, noise, vectors, or other nuisance conditions.

(2) The Secretary may adopt the rules required by this section as part of the Required Agricultural Practices or as independent rules under this chapter.

(c) A farm producing compost under 10 V.S.A. § 6001(22)(H) shall be regulated under this chapter and shall not require a certification or other approval from the Agency of Natural Resources under 10 V.S.A. chapter 159.

Sec. 4. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

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

* * *

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

* * *

(n) A farm producing compost under subdivision 6001(22)(H) is exempt from the requirements of this section.

Sec. 5. 10 V.S.A. § 6605h is amended to read:

§ 6605h. COMPOSTING REGISTRATION

Notwithstanding sections 6605, 6605f, and 6611 of this title, the Secretary may, by rule, authorize a person engaged in the production or management of compost at a small scale composting facility to register with the Secretary instead of obtaining a facility certification under section 6605 or 6605c of this title. This section shall not apply to a farm producing compost under subdivision 6001(22)(H).

Sec. 6. 10 V.S.A. § 6605j is amended to read:

§ 6605j. ACCEPTED COMPOSTING PRACTICES

(a) The Secretary, in consultation with the Secretary of Agriculture, Food and Markets, shall adopt by rule, pursuant to 3 V.S.A. chapter 25, and shall implement and enforce accepted composting practices for the management of composting in the State. These accepted composting practices shall address:

(1) standards for the construction, alteration, or operation of a composting facility;

(2) standards for facility operation, including acceptable quantities of product or inputs, vector management, odors, noise, traffic, litter control, contaminant management, operator training and qualifications, recordkeeping, and reporting;

(3) standards for siting of composting facilities, including siting and operation of compost storage areas, compost bagging areas, and roads and parking areas;

(4) standards for the composting process, including rotation, management of compost piles, compost pile size, and monitoring of compost operations;

(5) standards for management of runoff from compost facilities, including liquids management from the feedstock area, active composting areas, curing area, and compost storage area; the use of swales or stormwater management around or within a compost facility; vegetative buffer requirements; and run-off management from tipping areas;

(6) specified areas of the State unsuitable for the siting of commercial composting that utilizes post-consumer food residuals or animal mortalities,

such as designated downtowns, village centers, village growth areas, or areas of existing residential density; and

(7) definitions of “small-scale composting facility,” “medium-scale composting facility,” and “de minimis composting exempt from regulation.”

(b) A person operating a small scale composting facility ~~or operating a composting facility on a farm~~ who follows the accepted composting practices shall not be required to obtain a discharge permit under section 1263 or 1264 of this title, a solid waste facility certification under chapter 159 of this title, or an air emissions permit under chapter 23 of this title unless a permit is required by federal law or the Secretary of Natural Resources determines that a permit is necessary to protect public health or the environment.

~~(c) The Secretary of Natural Resources shall coordinate with the Secretary of Agriculture, Food and Markets in implementing and enforcing the accepted composting practices. The Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources may, after opportunity for public review and comment, develop a memorandum of understanding for implementation and enforcement of the accepted composting practices. [Repealed.]~~

(d) The Secretary shall not regulate under this section a farm producing compost under subdivision 6001(22)(H).

Sec. 7. APPLICATION OF SOLID WASTE MANAGEMENT RULE

Prior to adoption of rules under 6 V.S.A. § 5133, the Secretary of Agriculture, Food and Markets shall require a person producing compost on a farm under subdivision 6001(22)(H) to comply with Sections 6–1101 through 6–1110 of the Agency of Natural Resources’ Vermont Solid Waste Management Rules. After adoption of rules under 6 V.S.A. § 5133, Sections 6-1101 through 6-1110 of the Agency of Natural Resources’ Vermont Solid Waste Management Rules shall not apply to a person producing compost on a farm under subdivision 6001(22)(H).

Sec. 8. UPDATE ON IMPLEMENTATION OF IMPORT OF FOOD RESIDUALS ONTO FARM FOR COMPOSTING

On or before January 15, 2022, the Secretary of Agriculture, Food and Markets and the Secretary of Natural Resources shall consult and present or submit testimony to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry regarding the import of food residuals onto farms for the purpose of compost production.

Sec. 9. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

UNFINISHED BUSINESS OF JANUARY 7, 2020

GOVERNOR'S VETOES

S. 37.

An act relating to medical monitoring.

Pending question (to be voted by call of the roll): Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

(For text of veto message, see Senate Calendar for January 7, 2020, page 1.)

S. 169.

An act relating to firearms procedures.

Pending question (to be voted by call of the roll): Shall the bill pass, notwithstanding the Governor's refusal to approve the bill? (Two-thirds of the members present required to override the Governor's veto.)

(For text of veto message, see Senate Calendar for January 7, 2020, page 9.)

UNFINISHED BUSINESS OF MARCH 12, 2020

Second Reading

Favorable

S. 287.

An act relating to the contractual rights of members of the Vermont State Employees' Retirement System.

Pending Question: Shall the bill be read the third time?

NEW BUSINESS

Third Reading

S. 180.

An act relating to prohibiting the use and application of the pesticide chlorpyrifos.

S. 187.

An act relating to transient occupancy for health care treatment and recovery.

S. 339.

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

Committee Bill for Second Reading
Favorable with Recommendation of Amendment

S. 337.

An act relating to energy efficiency entities and programs to reduce greenhouse gas emissions in the thermal energy and transportation sectors.

By the Committee on Natural Resources and Energy. (Senator Bray for the Committee.)

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

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

Sec. 1. ALLOWANCE OF THE USE OF ENERGY EFFICIENCY
CHARGE FUNDS FOR GREENHOUSE GAS EMISSIONS
REDUCTION PROGRAMS

(a) The electric resource acquisition budget for an entity appointed to provide electric energy efficiency and conservation programs and measures pursuant to 30 V.S.A. § 209(d)(2)(A) for the calendar years 2021–2023 shall be determined pursuant to 30 V.S.A. § 209(d)(3)(B). This section shall apply only if the entity’s total electric resource acquisition budget for 2021–2023 does not exceed the entity’s total electric resource acquisition budget for 2018–2020.

(b) Notwithstanding any provision of law or order of the Public Utility Commission (PUC) to the contrary, the PUC shall authorize an entity pursuant to subsection (a) of this section to spend a portion of its electric resource acquisition budget, in an amount to be determined by the PUC but not to exceed \$2,000,000.00 per year, on programs, measures, and services that reduce greenhouse gas emissions in the thermal energy or transportation sectors. Programs, measures, and services authorized pursuant to subsection (a) of this section shall:

(1) Reduce greenhouse gas emissions in the thermal energy or transportation sectors, or both.

(2) Have a nexus with electricity usage.

(3) Be additive and complementary to and shall not replace or be in competition with electric utility energy transformation projects pursuant to 30 V.S.A. § 8005(a)(3) such that they result in the largest possible greenhouse gas emissions reductions in a cost-effective manner.

(4) Be proposed after the entity consults with any relevant State agency or department and shall not be duplicative or in competition with programs delivered by that agency or department.

(5) Be delivered on a statewide basis. However, if any of these funds are used for services specific to a retail electricity provider, the funds used for services to each retail electricity provider for the calendar years 2021–2023 shall be reasonably proportionate to the energy efficiency charge collected in that territory.

(c) An entity that is approved to provide a program, measure, or service pursuant to this section shall provide the program, measure, or service in cooperation with a retail electricity provider.

(1) The entity shall not claim any savings and reductions in fossil fuel consumption and in greenhouse gas emissions by the customers of the retail electricity provider resulting from the program, measure, or service if the provider elects to offer the program, measure, or service pursuant to 30 V.S.A. § 8005(a)(3) unless the entity and provider agree upon how savings and reductions should be accounted for, apportioned, and claimed.

(2) The PUC shall develop standards and methods to appropriately measure the effectiveness of the programs, measures, and services in relation to the entity’s Demand Resources Plan proceeding.

(d) Any funds spent on programs, measures, and services pursuant to this section shall not be counted towards the calculation of funds used by a retail electricity provider for energy transformation projects pursuant to 30 V.S.A. § 8005(a)(3) and the calculation of project costs pursuant to 30 V.S.A. § 8005(a)(3)(C)(iv).

(e) On or before April 30, 2021 and every April 30 for three years thereafter, the PUC shall submit a written report to the House Committee on Energy and Technology and the Senate Committees on Natural Resources and Energy and on Finance concerning any programs, measures, and services approved pursuant to this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage and shall be repealed as of April 30, 2024.

(Committee vote: 5-1-1)

Second Reading

Favorable with Recommendation of Amendment

S. 166.

An act relating to the dissolution of the State Board of Education.

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

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

* * * Transfer of Certain Responsibilities of the State Board of Education to the Secretary of Education * * *

Sec. 1. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

The State Board shall ~~evaluate education policy proposals, including timely evaluation of policies presented by the Governor and Secretary; engage local school board members and the broader education community; and establish and advance education policy for the State of Vermont and, consistent with the provisions of this title, its own rules, and rules adopted by the Secretary, establish and regularly update a long-term strategic vision for the delivery of educational services in Vermont; advise the General Assembly, the Governor, and the Secretary of Education on high priority educational policies and issues as they arise; and act in accordance with Legislative mandates, including the adoption of rules and executing special assignments.~~ engage local school board members and the broader education community; and establish and advance education policy for the State of Vermont and, consistent with the provisions of this title, its own rules, and rules adopted by the Secretary, establish and regularly update a long-term strategic vision for the delivery of educational services in Vermont; advise the General Assembly, the Governor, and the Secretary of Education on high priority educational policies and issues as they arise; and act in accordance with Legislative mandates, including the adoption of rules and executing special assignments. In addition to other specified duties, the Board shall:

(1) Establish such advisory commissions as in the judgment of the Board will be of assistance to it in carrying out its duties. Advisory commission members shall serve with or without compensation at the discretion of the Board but shall receive actual expenses incurred in pursuance of their duties.

(2) Have the authority to enter into agreements with school districts, municipalities, states, the United States, foundations, agencies, or individuals for service, educational programs, or research projects.

(3) Examine and determine all appeals that by law are made to it and prescribe rules of practice in respect thereto, not inconsistent with law.

(4) ~~Review and comment on an Agency budget prepared by the Secretary for the Governor.~~ [Repealed.]

(5) [Repealed.]

(6) ~~Make regulations governing the attendance and records of attendance of all students and the department of students attending public schools. [Repealed.]~~

(7) ~~Adopt rules pursuant to 3 V.S.A. chapter 25 as necessary or appropriate for the execution of its powers and duties and of the powers and duties of all persons under its supervision and control to carry out the powers and duties of the Board as directed by the General Assembly, within the limitations of legislative intent, including rules concerning:~~

~~(A) the operation and administration of the State Board of Education;~~

~~(B) educational quality standards;~~

~~(C) independent school program approval, including:~~

~~(i) approval of distance learning schools;~~

~~(ii) post-secondary schools; and~~

~~(iii) private kindergarten approval;~~

~~(D) special education, including special education finance and census-based funding;~~

~~(E) school accountability system based on student achievement;~~

~~(F) supervisory union and school district organization; and~~

~~(G) proposals for alternative structures under 2015 Acts and Resolves No. 46.~~

~~(8) Review and comment on rules proposed by the Agency of Education prior to pre-filing the proposed rules with the Interagency Committee on Administrative Rules under 3 V.S.A. § 837.~~

(9) ~~Implement~~ Develop and continually update standards for student performance in appropriate content areas and at appropriate intervals in the continuum from ~~kindergarten~~ prekindergarten to grade 12 and methods of assessment to determine attainment of the standards for student performance. The standards shall be rigorous, challenging, and designed to prepare students to participate in and contribute to the democratic process and to compete in the global marketplace. The standards shall include a standard for reading level proficiency for students completing grade three.

(10) [Repealed.]

~~(11) If deemed advisable, determine educational standards for admission to and graduation from the public schools. [Repealed.]~~

~~(12) [Repealed.]~~

~~(13) Be the State Board for the program of adult education and literacy and perform all the duties and powers prescribed by law pertaining to adult education and literacy and to act as the State approval agency for educational institutions conducting programs of adult education and literacy. [Repealed.]~~

~~(14) Adopt rules for approval of independent schools. [Repealed.]~~

~~(15) Establish criteria governing the establishment of a system for the receipt, deposit, accounting, and disbursement of all funds by supervisory unions and school districts. [Repealed.]~~

~~(16) In cooperation with the Secretary, ensure that the Agency develops information, plans, and assistance to aid in making technology and telecommunications available and coordinated in all school districts. The State Board shall develop guidelines for distribution of federal, State, or private funds designated for the development or expansion of distance learning technologies. The guidelines shall encourage, consistent with any terms or conditions established by the funding source, collaboration between schools and school districts to realize economic and educational efficiencies. [Repealed.]~~

~~(17) Report annually on the condition of education statewide and on a supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of hazing, harassment, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on hazing, harassment, or bullying incidents shall be disaggregated by incident type, including disaggregation by ethnic groups, racial groups, religious groups, gender, sexual orientation, gender identity, disability status, and English language learner status. The Secretary shall use the information in the report to determine whether students in each school, school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title. [Repealed.]~~

~~(18) Ensure that Vermont's students, including students enrolled in secondary career technical education, have access to a substantially equal educational opportunity by developing a system to evaluate the equalizing effects of Vermont's education finance system and education quality standards under section 165 of this title. [Repealed.]~~

~~(19) [Repealed.]~~

~~(20) Pursuant to section 806g of this title, constitute the State Council for the Interstate Compact on Educational Opportunity for Military Children and appoint to the Council a Compact Commissioner and Military Family Education Liaison, who may be the same person. The Board may appoint additional members. [Repealed.]~~

~~(21) Report annually to the Governor and the General Assembly on the progress the Board has made on the development of education policy for the State current condition and future prospects of education in Vermont.~~

Sec. 2. 16 V.S.A. § 212 is amended to read:

§ 212. SECRETARY'S DUTIES GENERALLY

The Secretary shall execute those policies adopt rules pursuant to 3 V.S.A. chapter 25 necessary to execute the powers and responsibilities given to the Secretary under this title or otherwise required or authorized by State or federal law and as directed by the General Assembly, except that the Secretary shall not adopt rules in areas reserved to the State Board of Education under section 164 of this title, implement rules adopted by the Secretary and the State Board in the legal exercise of its their powers, and shall:

* * *

(23) Make rules governing the attendance and records of attendance of all students and the deportment of students attending public schools.

(24) Establish criteria governing the establishment of a system for the receipt, deposit, accounting, and disbursement of all funds by supervisory unions and school districts.

(25) Provide guidance to school districts to make technology and telecommunications available and coordinated in all school districts, including guidelines for the distribution of federal, State, and private funds designated for the development or expansion of distance learning technologies. The guidelines shall encourage, consistent with any terms or conditions established by the funding source, collaboration between schools and among school districts to realize economic and educational efficiencies.

(26) Report annually on the condition of education statewide and on a supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision 164(9) of this title, number and types of complaints of hazing, harassment, or bullying made pursuant to chapter 9, subchapter 5 of this title. The report shall also include information on the and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on hazing, harassment, or bullying incidents shall be disaggregated by incident type, including disaggregation by ethnic groups, racial groups, religious groups, gender, sexual orientation, gender identity, disability status, and English language learner status. The Secretary shall use the information in the report to determine whether students in each school, school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title.

(27) Ensure that Vermont's students, including students enrolled in secondary career technical education, have access to a substantially equal educational opportunity by developing a system to evaluate the equalizing effects of Vermont's education finance system and education quality standards under section 165 of this title.

(28) Be responsible for the program of adult education and literacy and perform all the duties and powers prescribed by law pertaining to adult education and literacy and to act as the State approval agency for educational institutions conducting programs of adult education and literacy.

(29) Submit proposed rules to the State Board for review and comment prior to prefiling them with the Interagency Committee on Administrative Rules under 3 V.S.A. § 837 within a time frame that accommodates the State Board's review of the proposed rules and the Secretary's ability to respond to the State Board's comments.

* * * Conforming Changes to Law in 16 V.S.A. chapter 3
(State Board of Education) * * *

Sec. 3. 16 V.S.A. § 167 is amended to read:

§ 167. HIGH SCHOOL EQUIVALENCE CERTIFICATE

The ~~State Board~~ Secretary is authorized to grant high school equivalency certificates to any person who has not been graduated from a high school on the basis of credits earned in the U.S. Armed Forces, credits earned in approved schools for adults, or satisfactory scores obtained on approved examinations.

Sec. 4. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS;
CLOSING

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

(1) promptly inform the ~~State Board~~ Secretary;

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

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

* * *

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

(e) When an institution of higher education is unable or unwilling to comply with the requirements of subsection (a) of this section, the ~~State Board~~ Secretary may expend State funds necessary to ensure the proper storage and availability of the institution's records. The Attorney General shall then seek recovery under this subsection, in the name of the State, of all of the State's incurred costs and expenses, including attorney's fees, arising from the failure to comply. Claims under this subsection shall be a lien on all the property of a

defaulting institution, until all claims under this subsection are satisfied. The lien shall take effect from the date of filing notice thereof in the records of the town or towns where property of the defaulting institution is located.

(f) The State Board shall adopt rules under this section for its proper administration. The rules may include provisions for preparing and maintaining transferred records. Persons acting as a repository of records are bound only by maintenance provisions to which they agreed before receiving transferred records.

* * *

Sec. 5. 16 V.S.A. § 176 is amended to read:

§ 176. POSTSECONDARY SCHOOLS CHARTERED IN VERMONT

* * *

(d) Exemptions. The following are exempt from the requirements of this section except for the requirements of subdivision (c)(1)(C) of this section:

* * *

(4) Postsecondary schools that are accredited. The following postsecondary institutions are accredited, meet the criteria for exempt status, and are authorized to operate educational programs beyond secondary education, including programs leading to a degree or certificate: Bennington College, Champlain College, ~~College of St. Joseph~~, Goddard College, ~~Green Mountain College~~, Landmark College, Marlboro College, Middlebury College, New England Culinary Institute, Norwich University, Saint Michael’s College, SIT Graduate Institute, ~~Southern Vermont College~~, Sterling College, Vermont College of Fine Arts, and Vermont Law School. This authorization is provided solely to the extent necessary to ensure institutional compliance with federal financial aid-related regulations, and it does not affect, rescind, or supersede any preexisting authorizations, charters, or other forms of recognition or authorization.

* * *

(e) Issuance. On proper application, the State Board shall issue a certificate of approval or a certificate of degree-granting authority, or both, to an applicant whose goals, objectives, programs, and resources, including personnel, curriculum, finances, and facilities, are found by the State Board to be in accordance with its rules for approval of postsecondary schools and adequate and appropriate for the stated purpose and for the protection of students and the public interest. The certificate shall be for a term not

exceeding five years. The certificate may be subject to conditions, terms, or limitations.

* * *

Sec. 6. 16 V.S.A. § 214 is added to read:

§ 214. STATE COUNCIL FOR THE INTERSTATE COMPACT ON
EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

Pursuant to section 806g of this title, the Agency shall constitute the State Council for the Interstate Compact on Educational Opportunity for Military Children and appoint to the Council a Compact Commissioner and Military Family Education Liaison, who may be the same person. The Secretary may appoint additional members.

Sec. 7. STATE BOARD OF EDUCATION RULES; AGENCY OF
EDUCATION

(a) Except for the State Board of Education rules referenced in subsection (b) of this section, the rules of the State Board of Education in effect on the effective date of this act shall constitute the rules of the Agency of Education until amended or repealed, and all references in those rules to the State Board of Education and the Commissioner of Education shall be deemed to refer to the Secretary of Education and all references to the Department of Education shall be deemed to refer to the Agency of Education.

(b) The following rules shall continue to be the rules of the State Board of Education:

- (1) Series 1200—State Board of Education;
- (2) Series 1320—Special Education Finance and Census-based Funding;
- (3) Series 2000—Educational Quality Standards;
- (4) Series 2200—Independent School Program Approval, including:
 - (A) 2231—Approval of Distance Learning Schools;
 - (B) 2240—Post-secondary Schools; and
 - (C) 2270—Private Kindergarten Approval;
- (5) Series 2360—Special Education;
- (6) Series 2500—School Accountability System Based on Student Achievement;
- (7) Series 3000—School District Organization; and
- (8) Series 3400—Proposals for Alternative Structures under Act 46.

* * * Conforming Changes to Law in 16 V.S.A. Excluding Chapter 3 (State Board of Education) * * *

* * *

Sec. 8. 16 V.S.A. § 133 is amended to read:

§ 133. SUPERVISOR; COMPREHENSIVE HEALTH EDUCATION

(a) The Secretary ~~with the approval of the State Board~~ may appoint one qualified person to supervise the preparation of appropriate curricula for use in the public schools, to promote programs for the preparation of teachers to teach these curricula, and to assist in the development of comprehensive health education programs.

* * *

Sec. 9. 16 V.S.A. § 136 is amended to read:

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

* * *

(b) The Secretary ~~with the approval of the State Board~~ shall establish an Advisory Council on Wellness and Comprehensive Health that shall include at least three members associated with the health services field. The members shall serve without compensation but shall receive their actual expenses incurred in connection with their duties relating to wellness and comprehensive health programs. The Council shall assist the Agency to plan, coordinate, and encourage wellness and comprehensive health programs in the public schools.

* * *

Sec. 10. 16 V.S.A. § 242 is amended to read:

§ 242. DUTIES OF SUPERINTENDENTS

The superintendent shall be the chief executive officer for the supervisory union board and for each school board within the supervisory union, and shall:

* * *

(4)(A) Provide data and information required by the Secretary and by using a format approved by the Secretary to:

(i) Report budgetary data for the subsequent school year and fiscal year.

(ii) Report all financial operations within the supervisory union to the Secretary ~~and State Board~~ for the preceding school year on or before August 15 of each year.

(iii) Report all financial operations for each member school district to the Secretary ~~and State Board~~ for the preceding school year on or before August 15 of each year.

* * *

Sec. 11. 16 V.S.A. § 244 is amended to read:

§ 244. DUTIES OF PRINCIPALS

* * *

(b) Without the approval of the ~~State Board~~ Secretary, secondary school principals shall not be charged with supervisory responsibility outside the secondary school.

Sec. 12. 16 V.S.A. § 256 is amended to read:

§ 256. CONTINUED VALIDITY OF CRIMINAL RECORD CHECK;
MAINTENANCE OF RECORDS

* * *

(d) The ~~State Board~~ Secretary may adopt rules regarding maintenance of records.

Sec. 13. 16 V.S.A. § 261a is amended to read:

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

(a) Duties. The board of each supervisory union shall:

* * *

(4) In accordance with criteria established by the ~~State Board~~ Secretary, establish and implement a plan for receiving and disbursing federal and State funds distributed by the Agency of Education, including funds awarded under P.L. 89-10, the Elementary and Secondary Education Act of 1965 as amended.

* * *

(6) Provide special education services on behalf of its member districts and, except as provided in section 43 of this title, compensatory and remedial services, and provide or coordinate the provision of other educational services as directed by the ~~State Board~~ Secretary or local boards; provided, however, if a supervisory union determines that services would be provided more

efficiently and effectively in whole or in part at the district level, then it may ask the Secretary to grant it a waiver from this provision.

* * *

Sec. 14. 16 V.S.A. § 471 is amended to read:

§ 471. APPLICATION OF OTHER LAWS

(a) The provisions of this title relating to the administration and maintenance of public schools, school meetings, and voting therein, to grand lists, to the raising and expending of school monies, to monies apportioned by the ~~State Board~~ Secretary, to sharing in other State aid, to the election, appointment, powers, duties, and liabilities of school officers, to elementary and higher instruction, to transportation, board, and attendance of students, to truancy and truant officers, to furnishing of textbooks and appliances, and to all other matters pertaining to schools in a town district, unless otherwise provided, and if not inconsistent with the rights granted by their charters, shall apply to schools maintained, similar school officers, and all matters pertaining to schools in incorporated school districts.

* * *

Sec. 15. 16 V.S.A. § 551 is amended to read:

§ 551. APPLICATION OF LAWS TO SCHOOL DISTRICTS

Unless otherwise specifically provided in statute with respect to a class of school district or in a municipal charter, the laws of this title, the laws pertaining to municipal corporations, and the rules of the State Board and the Agency shall apply to all school districts.

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

§ 559. PUBLIC BIDS

* * *

(b) When a school construction contract exceeds \$500,000.00:

(1) The ~~State Board~~ Secretary shall establish, in consultation with the Commissioner of Buildings and General Services and with other knowledgeable sources, general rules for the prequalification of bidders on such a contract. The Department of Buildings and General Services, upon notice by the Secretary, shall provide to school boards undergoing construction projects suggestions and recommendations on bidders qualified to provide construction services.

* * *

(d) Construction management. The school board may contract for the service of construction management to assist in a school construction project. The ~~State Board~~ Secretary, in consultation with the Commissioner of Buildings and General Services and other knowledgeable sources, shall adopt rules defining the term “construction management” and specifying the nature of bidding requirements under construction management services in order to assist school boards to comply with the public bidding requirements of this section.

* * *

(f) Waivers. The ~~State Board~~ Secretary shall by rule adopt standards governing the authority of the Secretary to grant individual waivers to the provisions of this section. The rules, at minimum, shall require the school board seeking the waiver to demonstrate to the Secretary that it is unable to comply with the bidding procedure through no fault of its own, and that it has proposed an alternative method of minimizing costs through a fair and public process.

(g) Violations. The ~~State Board~~ Secretary may deny State aid for school construction and for debt service on a project that proceeds in violation of this section.

Sec. 17. 16 V.S.A. § 563 is amended to read:

§ 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE

The school board of a school district, in addition to other duties and authority specifically assigned by law:

* * *

(8) Shall establish and maintain a system for receipt, deposit, disbursement, accounting, control, and reporting procedures that meets the criteria established by the ~~State Board~~ Secretary pursuant to subdivision ~~164(15)~~ 212(24) of this title and that ensures that all payments are lawful and in accordance with a budget adopted or amended by the school board. The school board may authorize a subcommittee, the superintendent of schools, or a designated employee of the school board to examine claims against the district for school expenses and draw orders for such as shall be allowed by it payable to the party entitled thereto. Such orders shall state definitely the purpose for which they are drawn and shall serve as full authority to the treasurer to make such payments. It shall be lawful for a school board to submit to its treasurer a certified copy of those portions of the board minutes, properly signed by the clerk and chair, or a majority of the board, showing to whom, and for what purpose each payment is to be made by the treasurer, and

such certified copy shall serve as full authority to the treasurer to make the payments as thus approved.

* * *

(21) Shall have the authority to engage in short-term borrowing to cover the costs of those portions of projects approved by the ~~State Board~~ Secretary and that will be reimbursed by the ~~State Board~~ Secretary under sections 3447-3456 of this title but which payments will be delayed. However, the board shall borrow under this subdivision only amounts that it would receive if the ~~State Board~~ Secretary could fund its obligation and may borrow no earlier than the time it would have received the funds. The State shall not pay for costs of borrowing funds under this subdivision.

* * *

(24) Shall adopt a policy that, in accordance with rules adopted by the ~~State Board of Education~~ Secretary, will integrate home study students into its schools through enrollment in courses, participation in cocurricular and extracurricular activities, and use of facilities.

(25) Shall, if it is a school board of a school district that maintains a secondary school, upon request, award a high school diploma to any Vermont resident who served in the military in World War II, the Korean War, or during the Vietnam era, was honorably separated from active federal military service, and does not hold a high school diploma. The ~~State Board~~ Secretary shall develop and make available an application form for veterans who wish to request a high school diploma.

* * *

Sec. 18. 16 V.S.A. § 570 is amended to read:

§ 570. HARASSMENT, HAZING, AND BULLYING PREVENTION
POLICIES

* * *

(d) Duties of the Secretary. The Secretary shall:

* * *

(2) establish an Advisory Council to review and coordinate school and statewide activities relating to the prevention of and response to harassment, hazing, and bullying. The Council shall report annually in January to the ~~State Board~~ Secretary and the House and Senate Committees on Education. The Council shall include:

* * *

Sec. 19. 16 V.S.A. § 701a is amended to read:

§ 701a. APPLICATION OF OTHER LAWS

* * *

(b) The provisions of general law relating to the administration and maintenance of schools, to school meetings and voting at the meetings, to grand lists, to the raising and expending of school money, to money apportioned by the ~~State Board~~ Secretary, to sharing in other State or federal aid, to the election, appointments, powers, duties, and liabilities of school officers, to secondary and elementary instruction, to transportation, board, and attendance of students, to textbooks and appliances, and to all other matters pertaining to schools in a town school district, unless inconsistent with this act or otherwise provided for in this subchapter, shall apply to schools maintained, similar school officers, and all matters pertaining to schools of the union school district.

Sec. 20. 16 V.S.A. § 829 is amended to read:

§ 829. PREKINDERGARTEN EDUCATION

* * *

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

* * *

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

* * *

Sec. 21. 16 V.S.A. § 1045 is amended to read:

§ 1045. DRIVER TRAINING COURSE

(a) A driver education and training course, approved by the Agency of Education and the Department of Motor Vehicles shall be made available to

students whose parent or guardian is a resident of Vermont and who have reached their 15th birthday and who are regularly enrolled in a public or independent high school approved by the ~~State Board~~ Secretary of Education.

(b) After June 30, 1984, all driver education courses shall include a course of instruction, approved by the ~~State Board~~ Secretary and the council on the effects of alcohol and drugs on driving.

* * *

Sec. 22. 16 V.S.A. § 1071 is amended to read:

§ 1071. SCHOOL YEAR AND SCHOOL DAY

* * *

(b) Hours of operation. Within the minimum set by the ~~State Board~~ Secretary, the school board shall fix the number of hours that shall constitute a school day, subject to change upon the order of the ~~State Board~~ Secretary.

(c) Unanticipated closings. When a public school is closed for cause beyond the control of the school board, it may petition the ~~State Board~~ Secretary for a waiver of the requirements of this section. The petition shall be filed with the ~~State Board~~ Secretary within 10 days of each occurrence and not later than June 15 of the school year involved; ~~and the State Board shall act on the petition at its next meeting. If the petition is approved and a waiver granted, the school district shall be deemed to have satisfied the requirements of this section. If the State Board fails to act at that meeting, the petition shall be deemed to have been approved and the waiver granted.~~

* * *

(g) Upon application of one or more school districts, after approval by the voters of each such district, the ~~State Board~~ Secretary may grant a waiver of the requirements of subsection (a) of this section if it is satisfied that equivalent educational programming will be maintained or improved. The waiver may be granted for any purpose, including the conservation of energy.

Sec. 23. 16 V.S.A. § 1162 is amended to read:

§ 1162. SUSPENSION OR EXPULSION OF STUDENTS

(a) A superintendent or principal may, pursuant to policies adopted by the school board that are consistent with ~~State Board~~ Agency rules, suspend a student for up to 10 school days or, with the approval of the board of the school district, expel a student for up to the remainder of the school year or up to 90 school days, whichever is longer, for misconduct:

* * *

Sec. 24. 16 V.S.A. § 1165 is amended to read:

§ 1165. ALCOHOL AND DRUG ABUSE

(a) The ~~State Board~~ Secretary, in consultation with local school boards, the alcohol and drug division, the law enforcement authorities, and the juvenile court system shall formulate a general policy for the education, discipline, and referral for rehabilitation of students who are involved with alcohol or drug abuse on school property or at school functions.

(b) The ~~State Board~~ Secretary shall adopt rules for all school districts that include standards consistent with due process of law for discipline, suspension, or dismissal of students and recommended procedures for education and for referral for treatment and rehabilitation.

(c) Each school district shall adopt its own policy consistent with the ~~State Board's~~ Agency rules setting forth: recommended procedures for education; referral for treatment, counseling, and rehabilitation; and standards consistent with due process of law for discipline, suspension, or dismissal of students in accordance with section 1162 of this title. Nothing in this section is intended to mandate local school districts to employ counselors for treatment or rehabilitation.

* * *

Sec. 25. 16 V.S.A. § 1224 is amended to read:

§ 1224. REPORTS

The superintendent shall include in his or her annual report to the school board of each district data regarding the students in the district who have been transported or boarded under the provisions of this chapter and the associated expenses. Annually, at a time fixed by the ~~State Board~~ Secretary, the superintendent shall report to the ~~Board~~ Secretary regarding the students transported or boarded under the provisions of this chapter and the associated expenses.

Sec. 26. 16 V.S.A. § 1262b is amended to read:

§ 1262b. RULES

The ~~State Board~~ Secretary shall adopt rules governing grants under section 1262a of this title. The rules shall provide for grants from State funds in accordance with federal guidelines for food programs. The ~~State Board~~ Secretary may adopt other rules that are necessary to carry out the provisions of this subchapter.

Sec. 27. 16 V.S.A. § 1321 is amended to read:

§ 1321. FORM AND CONTENTS OF REGISTER

~~With the approval of the State Board, the~~ The Secretary shall prescribe the content of school registers used to keep records of student enrollment and daily attendance and to obtain statistical and other information from teachers and school officers. Schools shall maintain an electronic system for recording enrollment and attendance

Sec. 28. 16 V.S.A. § 1388 is amended to read:

§ 1388. STOCK SUPPLY AND EMERGENCY ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS

(a) As used in this section:

(1) “Designated personnel” means a school employee, agent, or volunteer who has been authorized by the school administrator to provide and administer epinephrine auto-injectors under this section and who has completed the training required by ~~State Board~~ Agency policy.

* * *

(f) On or before January 1, 2014, the ~~State Board~~ Secretary, in consultation with the Department of Health, shall adopt policies for managing students with life-threatening allergies and other individuals with life-threatening allergies who may be present at a school. The policies shall:

* * *

(5) require each school to make publicly available protocols and procedures developed in accordance with the policies adopted by the ~~State Board~~ Secretary under this section.

Sec. 29. 16 V.S.A. § 1522 is amended to read:

§ 1522. DEFINITIONS

As used in this chapter:

* * *

(10) “CTE tuition” means the amount calculated by subtracting from total regional technical CTE center costs all expenditures from State and federal grants except for incentive grants, adult education grants, or other State grants as defined by ~~State Board~~ Agency rule, then dividing the result by the sum of the actual number of full-time equivalent out-of-state students and the average of the full-time equivalent Vermont students for the three prior years.

* * *

Sec. 30. 16 V.S.A. § 1531 is amended to read:

§ 1531. RESPONSIBILITY OF STATE BOARD SECRETARY OF EDUCATION

(a) ~~The State Board Secretary~~ has overall responsibility for the effectiveness of career technical education. This requires the ~~Board Secretary~~ to collect suitable information and to take appropriate steps within its legal, financial, and personnel resources to ensure that:

* * *

~~(b) In order to provide regional career technical education services efficiently, the State Board shall designate a service region for each career technical center. However, the Board may designate a service region for two or more comprehensive high schools if that region is not served by a career technical center.~~

~~(c) For a school district that is geographically isolated from a Vermont career technical center, the State Board may approve a career technical center in another state as the career technical center that district students may attend. In this case, the school district shall receive transportation assistance pursuant to section 1563 of this title and tuition assistance pursuant to section 1561(c) of this title. Any student who is a resident in the Windham Southwest Supervisory Union and who is enrolled at public expense in the Charles H. McCann Technical School or the Franklin County Technical School shall be considered to be attending an approved career technical center in another state pursuant to this subsection, and, if the student is from a school district eligible for a small schools support grant pursuant to section 4015 of this title, the student's full-time equivalency shall be computed according to time attending the school.~~

Sec. 31. 16 V.S.A. § 1531a is added to read:

§ 1531a. RESPONSIBILITY OF STATE BOARD

(a) In order to provide regional career technical education services efficiently, the State Board shall designate a service region for each career technical center. However, the Board may designate a service region for two or more comprehensive high schools if that region is not served by a career technical center.

(b) For a school district that is geographically isolated from a Vermont career technical center, the State Board may approve a career technical center in another state as the career technical center that district students may attend. In this case, the school district shall receive transportation assistance pursuant to section 1563 of this title and tuition assistance pursuant to section 1561(c)

of this title. Any student who is a resident in the Windham Southwest Supervisory Union and who is enrolled at public expense in the Charles H. McCann Technical School or the Franklin County Technical School shall be considered to be attending an approved career technical center in another state pursuant to this subsection, and, if the student is from a school district eligible for a small schools support grant pursuant to section 4015 of this title, the student's full-time equivalency shall be computed according to time attending the school.

Sec. 32. 16 V.S.A. § 1532 is amended to read:

§ 1532. MINIMUM STANDARDS; MEASUREMENT OF STANDARDS

(a) ~~The State Board~~ Secretary shall adopt by rule:

(1) Minimum standards for the operation and performance of career technical centers that include the education quality standards adopted by the State Board under subdivision 164(9) and section 165 of this title.

(2) Standards for student performance based on the standards adopted by the State Board under subdivision 164(9) of this title and standards for industry recognized credentials.

* * *

Sec. 33. 16 V.S.A. § 1533 is amended to read:

§ 1533. CAREER TECHNICAL CENTER EVALUATION

(a) At least once in each period of five years, and in coordination with the Vermont Advisory Council on Career Technical Education, the Secretary shall evaluate the effectiveness of each career technical center in the State. ~~The State Board~~ Secretary by rule shall prescribe the method for conducting these evaluations.

(b) Evaluations of career technical centers shall consider at least the following areas:

(1) compliance with this chapter and the rules of the ~~State Board~~ Agency;

* * *

Sec. 34. 16 V.S.A. § 1534 is amended to read:

§ 1534. COURSE OF STUDY EVALUATION

(a) At least once in each period of five years, and in coordination with the Vermont Advisory Council on Career Technical Education, the Secretary shall evaluate the effectiveness of each course of study offered by any career

technical center in the State. The ~~State Board~~ Secretary by rule shall prescribe the method for conducting these evaluations.

* * *

Sec. 35. 16 V.S.A. § 1544 is amended to read:

§ 1544. CAREER TECHNICAL COURSES IN OTHER SCHOOLS

Subject to any direction and regulations as to courses, teachers, or equipment that the ~~State Board~~ Secretary of Education may prescribe by rule, high schools may include within their courses of study pretechnical or career technical courses, or both. Before establishing such a program, a high school shall consult with the regional advisory board for its CTE service region.

Sec. 36. 16 V.S.A. § 1545 is amended to read:

§ 1545. CREDITS AND GRADES EARNED

(a) Grades earned in a course offered within a CTE program ~~approved by the State Board~~ that complies with Agency rules shall not be altered by any public school or ~~approved or recognized independent school in Vermont and shall be applied by the school toward any State graduation requirements in accordance with rules adopted by the State Board Secretary.~~ Any ~~State Board Agency~~ Agency rules regarding earning of credits shall allow flexibility with respect to the integration of CTE education and other academic courses.

(b) The credits earned for a career technical education program ~~approved by the State Board~~ that complies with Agency rules shall be honored by any public or independent school within Vermont. If necessary to enable a student to participate in career technical education and graduate with his or her class, the credits earned shall be applied toward any school district or independent school graduation requirements exceeding the minimum number of credits required by ~~the State Board Agency rule.~~ The school board of the high school from which the student wishes to graduate shall make a determination as to whether the credits shall be applied toward graduation requirements. A decision of a school board may be appealed to the Secretary who shall construe this section to favor participation in career technical education.

* * *

Sec. 37. 16 V.S.A. § 1552 is amended to read:

§ 1552. SECONDARY STUDENT TUITION

(a) Each career technical center shall establish a tuition charge for secondary career technical education. The amount shall reflect the actual cost, as defined by Agency rule ~~of the State Board~~, of attendance in the career

technical courses offered by the center. The tuition charge shall be reduced proportionally for students enrolled in a part-time program.

(b) Secondary students are eligible for tuition assistance in career technical education provided in another state when the ~~State Board~~ Secretary determines that such career technical education can properly serve the needs of Vermont students.

* * *

Sec. 38. 16 V.S.A. § 1562 is amended to read:

§ 1562. TRYOUT CLASSES

From the monies annually available for use in career technical education, the ~~State Board~~ Secretary may reimburse part of the program cost attributable to programs designed to assist students in deciding whether to enroll in career technical courses. As a condition of such assistance, the program shall demonstrate that it has taken steps to encourage each student to consider enrolling in courses not traditional for that student's gender.

Sec. 39. 16 V.S.A. § 1563 is amended to read:

§ 1563. TRANSPORTATION ASSISTANCE

* * *

(c) The ~~State Board~~ Secretary may adopt rules necessary to implement this section.

Sec. 40. 16 V.S.A. § 1565 is amended to read:

§ 1565. SALARY ASSISTANCE

(a) The ~~State Board~~ Secretary shall reimburse a school district operating a career technical center for a portion of its cost in paying the salary of the following persons:

* * *

(b) Assistance under this section shall be determined by a formula and standards established by rule of the ~~State Board~~ Secretary. The formula and those standards:

* * *

Sec. 41. 16 V.S.A. § 1568 is amended to read:

§ 1568. REPORTING OF INFORMATION

(a) Annually, in accordance with a time line, format, and process established by ~~State Board~~ Agency rule, each CTE center shall report its costs

and student enrollment, achievement, and performance measures to the Secretary. CTE center financial accounts shall be kept separately from those of the host high school in accordance with rules adopted by the ~~State Board Secretary~~, which shall clearly delineate relevant costs and revenues.

(b) If a CTE center fails to file financial or student information required under this section within the timelines established by Agency rule ~~of the State Board~~, the Secretary may withhold funds due under this chapter and shall subtract \$100.00 per business day from funds due the center under this chapter. The Secretary may waive the \$100.00 penalty upon appeal by the center for good cause.

Sec. 42. 16 V.S.A. § 1577 is amended to read:

§ 1577. DUTIES AND AUTHORITY OF ALTERNATIVE GOVERNANCE BOARD

The governance board of a CTE center authorized under this subchapter, in addition to other duties and authority specifically assigned by law to the governing authority of a CTE center, shall have the following duties and authority:

* * *

(6) To establish and maintain a system for receipt, deposit, disbursement, accounting, control, and reporting procedures that meets the criteria established by the ~~State Board Secretary~~ pursuant to subdivision ~~164(15)~~ 212(24) of this title and that ensures all payments are lawful and in accordance with the budget adopted pursuant to terms approved by the ~~State Board Secretary~~. The ~~Board Secretary~~ may authorize a subcommittee, a superintendent of schools, or a designated employee of the ~~Board Agency~~ to examine claims against the district for center expenses, and draw orders for such as shall be allowed by it payable to the party entitled thereto. Such orders shall state definitely the purpose for which they are drawn, and shall serve as full authority to the treasurer to make such payments. It shall be lawful for a board to submit to its treasurer a certified copy of those portions of the board minutes, properly signed by the clerk and chair, or a majority of the board, showing to whom, and for what purpose, each payment is to be made by the treasurer, and the certified copy shall serve as full authority to the treasurer to make the approved payments.

* * *

Sec. 43. 16 V.S.A. § 1601 is amended to read:

§ 1601. DEFINITIONS

As used in this chapter:

* * *

(2) “Industry competency standards” ~~mean~~ means performance criteria developed jointly by educators and business representatives and adopted by the ~~State Board~~ Secretary that define skills and knowledge that are needed in the workplace.

* * *

(5) “Student apprentice coordinator” means a licensed professional educator whom the ~~State Board of Education~~ Secretary finds qualified to plan, implement and evaluate a student apprenticeship program.

* * *

Sec. 44. 16 V.S.A. § 1602 is amended to read:

§ 1602. SCHOOL BOARD RESPONSIBILITIES

* * *

(b) Each school board that runs a student apprenticeship program shall:

* * *

(2) Ensure preparation of individuals employed by business to be worksite mentors according to guidelines established by the ~~State Board~~ Secretary. Each participating business shall support the preparation of the worksite mentor as a condition to participating in the student apprenticeship program.

* * *

Sec. 45. 16 V.S.A. § 1603 is amended to read:

§ 1603. ELEMENTS OF THE PROGRAM

(a) An eligible student may apply to enter the student apprenticeship program upon successful completion of grade 10 or its equivalent and meeting entrance requirements established by the ~~State Board of Education~~ Secretary.

* * *

(f) A student apprentice who successfully completes a student apprenticeship program shall receive an industry competency certificate issued by the ~~State Board of Education~~ Secretary. In order to earn an industry

competency certificate, a student apprentice shall demonstrate mastery of industry competency standards and shall complete academic requirements for graduation.

* * *

Sec. 46. 16 V.S.A. § 1604 is amended to read:

§ 1604. ~~STATE BOARD~~ SECRETARY OF EDUCATION
RESPONSIBILITIES

The ~~State Board of Education~~ Secretary shall:

* * *

(6) Certify those who graduate from a student apprenticeship program as meeting industry competency standards for entrance into the trade or profession the student has studied. The ~~State Board~~ Secretary shall maintain a record of certificates issued under this subdivision.

Sec. 47. 16 V.S.A. § 1605 is amended to read:

§ 1605. REGIONAL ADVISORY BOARD RESPONSIBILITIES

Each regional advisory board shall:

(1) Based on standards of operation established by the ~~State Board of Education~~ Secretary, approve or disapprove an application from a school board to establish and operate a student apprenticeship program. The ~~Board~~ Secretary may rescind approval if the program is not meeting the standards.

(2) Based on standards and processes established by the ~~State Board~~ Secretary, determine which applicants shall be accepted into the student apprenticeship programs in its region and determine whether a student should be terminated from a program. Decisions regarding acceptance into a program shall, in part, be based on submission of an acceptable career preparation plan developed by the applicant with the help of a guidance counselor. Decisions regarding termination shall be made with the advice of the student apprenticeship coordinator.

* * *

Sec. 48. 16 V.S.A. § 1931 is amended to read:

§ 1931. DEFINITIONS

As used in this chapter:

* * *

(20) "Teacher" shall mean any licensed teacher, principal, supervisor, superintendent, or any professional licensed by the Vermont Standards Board for Professional Educators who is regularly employed, or otherwise contracted if following retirement, for the full normal working time for his or her position in a public day school or school district within the State, or in any school or teacher-training institution located within the State, controlled by the State Board of Education or the Agency of Education, and supported wholly by the State; or in certain public independent schools designated for such purposes by the Board in accordance with section 1935 of this title. In all cases of doubt, the Board shall determine whether any person is a teacher as defined in this chapter. It shall not mean a person who is teaching with an emergency license.

* * *

Sec. 49. 16 V.S.A. § 1935 is amended to read:

§ 1935. TEACHERS IN CERTAIN PUBLIC OR INDEPENDENT SCHOOLS

(a) The Board of Trustees may designate certain public or independent schools, which are located within the State, and supported wholly or in part by the State but ~~which~~ that are not under the control of the State Board of Education or the Agency of Education, as employers of teachers within the meaning of this chapter.

* * *

Sec. 50. 16 V.S.A. § 2903 is amended to read:

§ 2903. PREVENTING EARLY SCHOOL FAILURE; READING INSTRUCTION

(b) Foundation for literacy. The ~~State Board~~ Agency of Education, in collaboration with the Agency of Human Services, higher education, literacy organizations, and others, shall develop a plan for establishing a comprehensive system of services for early education in the first three grades to ensure that all students learn to read by the end of the third grade. The plan shall be updated at least once every five years following its initial submission in 1998.

* * *

Sec. 51. 16 V.S.A. § 2905 is amended to read:

§ 2905. PREKINDERGARTEN-16 COUNCIL

* * *

(h) The Council shall report on its activities to the House and Senate Committees on Education and to the ~~State Board~~ Secretary of Education each year in January. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection.

Sec. 52. 16 V.S.A. § 2944 is amended to read:

§ 2944. SPECIAL EDUCATION

(a)–(c) [Repealed.]

(d) The Secretary ~~with the advice of the State Board~~ may make grants for programs and may make grants, subject to conditions the Secretary shall establish, to persons whom he or she finds qualified for either part-time or full-time study in programs designed to qualify them as special education personnel.

* * *

Sec. 53. 16 V.S.A. § 2945 is amended to read:

§ 2945. ADVISORY COUNCIL ON SPECIAL EDUCATION

* * *

(d) The Council shall:

* * *

(2) review periodically the rules, regulations, standards, and guidelines pertaining to special education and recommend to the State Board and the Secretary any changes it finds necessary;

* * *

(4) advise the State Board and the Secretary in the development of any State plan for provision of special education.

Sec. 54. 16 V.S.A. § 2958 is amended to read:

§ 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL PLACEMENTS

* * *

(e) Costs for residential placement shall be reimbursed under subchapter 2 of this chapter only if the residential facility is approved by the ~~State Board~~ Secretary for the purposes of providing special education and related services to children with disabilities.

Sec. 55. 16 V.S.A. § 2973 is amended to read:

§ 2973. INDEPENDENT SCHOOL TUITION RATES

* * *

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

Sec. 56. 16 V.S.A. § 2974 is amended to read:

§ 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

Annually, the Secretary shall report to the ~~State Board~~ House and Senate Committees on Education regarding:

* * *

Sec. 57. 16 V.S.A. § 2974 is amended to read:

§ 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

Annually, the Secretary shall report to the ~~State Board~~ House and Senate Committees on Education regarding:

* * *

Sec. 58. 16 V.S.A. § 2974 is amended to read:

§ 2869. LOAN CANCELLATION; MATHEMATICS, SCIENCE, AND
COMPUTER SCIENCE TEACHERS

(a) Loans obtained under this subchapter may be partially or completely cancelled and forgiven for a borrower who is employed for a complete academic school year as a full-time licensed teacher:

(1) in a Vermont elementary or secondary school ~~that is approved by the State Board;~~ and

* * *

Sec. 59. 16 V.S.A. § 3448 is amended to read:

§ 3448. APPROVAL AND FUNDING OF SCHOOL CONSTRUCTION
PROJECTS; RENEWABLE ENERGY

(a) Construction aid.

(1) Preliminary application for construction aid. A district or independent school eligible for assistance under section 3447 of this title, that intends to construct or purchase a new school, or make extensive additions or alterations to its existing school, and desires to avail itself of State school

construction aid, shall submit a written preliminary application to the Secretary. A preliminary application shall include information required by the ~~State Board~~ Secretary by rule and shall specify the need for and purpose of the project.

(2) Approval of preliminary application.

(A) When reviewing a preliminary application for approval, the Secretary shall consider:

* * *

(iv) statewide educational initiatives ~~and the strategic plan of the State Board of Education.~~

* * *

(3) Priorities. Following approval of a preliminary application and provided that the district has voted funds or authorized a bond for the total estimated cost of a project, the ~~State Board~~ Secretary shall assign points to the project so that the project can be placed on a priority list based on the number of points received. Once a project receives points, if it does not receive funding in a given year, it shall not lose points in subsequent years and, pursuant to rule of the ~~Board~~ Secretary and provided the scope of the project remains the same, it shall gain points due to length of time on the list and may gain points for any other reason. The points shall be assigned in the following priority:

* * *

(4) Request for legislative appropriation. ~~By~~ On or before January 15 of each year, the ~~State Board~~ Secretary shall present the House Committee on Corrections and Institutions and the Senate Committee on Institutions with its annual capital construction funding request. Following receipt of the request, the Committees shall recommend a total school construction appropriation for the next fiscal year to the General Assembly. The General Assembly shall not revise the order of the project priorities presented by the ~~State Board~~ Secretary. The funding request to the Committees shall be in the form of separate line items as follows:

(A) a list of projects that have been assigned points in their order of priority, including the voted funds or authorized bond amount for each project;

(B) the cost of emergency projects that the ~~State Board~~ Secretary has approved but not yet reimbursed due to insufficient funds, as well as the estimated cost of those that might be approved in the coming year under subsection (d) of this section;

(C) the cost of projects to extend the life of a building that the ~~State Board~~ Secretary has approved but not yet reimbursed due to insufficient funds, as well as the estimated cost of those that might be approved by the ~~State Board~~ Secretary in the coming fiscal year under subdivision (3)(B) of this subsection (a).

(5) Final approval for construction aid.

(A) Unless approved by the Secretary for good cause in advance of commencement of construction, a school district shall not begin construction before the ~~State Board~~ Secretary approves a final application. A school district may submit a written final application to the ~~State Board~~ Secretary at any time following approval of a preliminary application.

(B) The ~~State Board~~ Secretary may approve a final application for a project provided that:

* * *

(iv) the district has provided for construction financing of the project during a period prescribed by the ~~State Board~~ Secretary;

* * *

(C) The board of trustees of an independent school may submit a written final application to the ~~State Board~~ Secretary for a project for which a preliminary application has been approved by the Secretary, provided that each municipality represented on the board of trustees has voted funds or authorized a bond issue for 100 percent of the municipality's estimated share of the project in an amount determined by the Secretary under this section.

(D) The ~~State Board~~ Secretary may provide that a grant for a high school project is conditioned upon the agreement of the recipient to provide high school instruction for any high school pupil living in an area prescribed by the ~~Board~~ Secretary who may elect to attend the school.

* * *

(8) Eligible construction cost.

(A) Space and cost parameters. Only those portions of a project shall be eligible for construction aid that meet space and cost parameters adopted by the ~~State Board~~ Secretary. The parameters shall define maximum square footage costs, maximum gross square footage per student by grade range and school size, and minimum and maximum square footage allowances per student for programs and services.

* * *

(9) Payment. Upon satisfactory evidence that a project approved under subdivision (5) of this subsection (a) is under construction or has been constructed, and upon appropriation of funds sufficient to fund the State aid due under this section, the ~~State Board~~ Secretary shall certify an award for the project to the Commissioner of Finance and Management who shall issue a warrant for the payment of one-half of the award, or the entire award if the project is complete. After a project has been completed according to approved plans and specifications and the cost thereof has been audited by the Agency, the Secretary shall certify the remainder of the award due for the project to the Commissioner of Finance and Management who shall issue a warrant for the payment. Provided, however, if a project that is included on a prioritized list, for which list the General Assembly has appropriated funds in any year, is not eligible to be certified for one-half of the award or for the entire award, and if another project of lesser priority is eligible for certification, nothing in this section shall preclude the ~~State Board~~ Secretary from certifying an award for the lesser priority project prior to the higher priority project.

* * *

(e) Rules. The ~~State Board~~ Secretary shall adopt rules pertaining to school construction and capital outlay.

* * *

Sec. 60. 16 V.S.A. § 3448a is amended to read:

§ 3448a. APPEAL

Any municipal corporation or independent school as defined in section 3447 of this title aggrieved by an order, allocation or award of the ~~State Board~~ Secretary of Education may, within 30 days, appeal ~~therefrom~~ to the State Board, and may appeal from the decision of the State Board, within 30 days of that decision, to the Superior Court in the county in which the project is located.

Sec. 61. 16 V.S.A. § 3448f is amended to read:

§ 3448f. ENERGY PERFORMANCE CONTRACTING;
AUTHORIZATION; STATE AID

(a) Definitions. As used in this section:

(1) “Cost-saving measure” means any facility improvement, repair, or alteration or any equipment, fixture, or furnishing to be constructed or installed in any facility that is designed to reduce energy consumption and operating costs or to increase the operating efficiency of facilities for their

appointed functions, that is cost effective, and that is further defined by ~~State Board~~ Agency rule.

* * *

(f) State funding for energy conservation measures.

* * *

(3) Priorities. Following approval of a district's application, the ~~State Board~~ Secretary shall assign points, established by ~~Board~~ Agency rule, to the project so that the project can be placed on a priority list distinct from but similar to the list established under section 3448 of this title, based on the number of points received. Once a project receives points, if it does not receive funding in a given year, it shall not lose points in subsequent years and, pursuant to ~~Board~~ Agency rule and provided the scope of the project remains the same, it shall gain points due to the length of time on the list and may gain points for any other reason. Prioritized projects under this section shall be included in the ~~State Board's~~ Secretary's request for legislative appropriation as a separate and distinct line item under section 3448 of this title. Any legislative appropriation made to fund the line item for performance contracts shall not exceed 20 percent of the appropriation made in the same year to fund State aid for school construction under section 3448.

* * *

(5) Eligible costs. A project or portions of a project under this section shall be eligible for aid pursuant to criteria established by ~~State Board~~ Agency rule.

(6) Payment. Upon completion of the construction or installation of the cost-saving measure, determination by the Department of Buildings and General Services that implementation of the cost-saving measures is expected to result in energy and operational cost-savings, and legislative appropriation sufficient to fund the State aid due under this section, the ~~State Board~~ Secretary shall certify an award for the project to the Commissioner of Finance and Management who shall issue a warrant for the payment of the award. A district awarded State aid under this section shall use the State aid solely for the purpose of paying all or a portion of the obligation due under the performance contract at the time the award is received.

* * *

Sec. 62. 16 V.S.A. § 3454 is amended to read:

§ 3454. DEFERRED MAINTENANCE

No State school construction aid shall be available under this title for any proposed project or construction if the Secretary finds the need for the project or construction has arisen in whole or in part from significant deferred maintenance. The ~~State Board~~ Secretary, by rule, shall define “significant deferred maintenance.”

Sec. 63. 16 V.S.A. § 3581 is amended to read:

§ 3581. ACCEPTANCE

The ~~State Board~~ Secretary may accept, use, disburse, and account for federal funds made available for the purposes of acquisition, construction, reconstruction, remodeling, or repair of public school buildings.

Sec. 64. 16 V.S.A. § 3582 is amended to read:

§ 3582. FORMULATION OF PLANS

The ~~State Board~~ Secretary may formulate any State plan, including preparation of surveys and estimates of school building needs, required by federal legislation.

Sec. 65. 16 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

As used in this chapter:

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

(A) The full-time equivalent enrollment of students, as defined by the ~~State Board~~ Secretary by rule, who are legal residents of the district or municipality attending a school owned and operated by the district, attending a public school outside the district under section 822a of this title, or for whom the district pays tuition to one or more approved independent schools or public schools outside the district during the annual census period. The census period consists of the 11th day through the 30th day of the school year in which school is actually in session.

(B) The full-time equivalent enrollment in the year before the last census period, of any State-placed students as defined in subdivision 11(a)(28) of this title. A school district that provides for the education of its students by paying tuition to an approved independent school or public school outside the

district shall not count a State-placed student for whom it is paying tuition for purposes of determining average daily membership. A school district that is receiving the full amount, as defined by the ~~State Board~~ Secretary by rule, of the student's education costs under subsection 2950(a) of this title, shall not count the student for purposes of determining average daily membership. A State-placed student who is counted in average daily membership shall be counted as a student for the purposes of determining weighted student count.

* * *

(6) "Education spending" means the amount of the school district budget, any assessment for a joint contract school, career technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental fundraising, federal funds, nongovernmental grants, or other State funds such as special education funds paid under chapter 101 of this title.

(A) [Repealed.]

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), "education spending" shall not include:

* * *

(iii) Spending that is approved school capital construction spending or deposited into a reserve fund under 24 V.S.A. § 2804 to pay future approved school capital construction costs, including that portion of tuition paid to an independent school designated as the public high school of the school district pursuant to section 827 of this title for capital construction costs by the independent school that has received approval from the ~~State Board of Education~~ Secretary, using the processes for preliminary approval of public school construction costs pursuant to subdivision 3448(a)(2) of this title.

* * *

Sec. 66. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

(1) "Eligible school district" means a school district that:

(A) operates at least one school with an average grade size of 20 or fewer; and

(B) has been determined by the ~~State Board~~ Secretary, on an annual basis, to be eligible due to either:

* * *

Sec. 67. 16 V.S.A. § 4016 is amended to read:

§ 4016. REIMBURSEMENT FOR TRANSPORTATION EXPENDITURES

* * *

(b) ~~In~~ As used in this section, “allowable transportation expenditures” means the costs of transporting students to and from school for regular classroom services and shall not include expenditures for transporting students participating in curricular activities that take place off the school grounds or for transporting students participating in cocurricular activities. The ~~State Board~~ Secretary shall further define allowable transportation expenditures by rule.

(c) A district or supervisory union may apply and the Secretary may pay for extraordinary transportation expenditures incurred due to geographic or other conditions such as the need to transport students out of the school district to attend another school because the district does not maintain a public school. The ~~State Board~~ Secretary shall define extraordinary transportation expenditures by rule. The total amount of base year extraordinary transportation grant expenditures shall be \$250,000.00 for fiscal year 1997, increased each year thereafter by the annual price index for state and local government purchases of goods and services. Extraordinary transportation expenditures shall not be paid out of the funds appropriated under subsection (b) of this section for other transportation expenditures. Grants paid under this section shall be paid from the Education Fund and shall be added to adjusted education payment receipts paid under section 4011 of this title.

Sec. 68. 16 V.S.A. § 4030 is amended to read:

§ 4030. DATA SUBMISSION; CORRECTIONS

(a) Upon discovering an error or change in data submitted to the Secretary for the purpose of determining payments to or from the Education Fund, a school district shall report the error or change to the Secretary as soon as possible. Any budget deficit or surplus due to the error or change shall be carried forward to the following year.

* * *

(e) The ~~State Board~~ Secretary may adopt rules as necessary to implement the provisions of this section.

Sec. 69. EFFECTIVE DATES

This act shall take effect on passage, except for Sec. 57 (16 V.S.A. § 2974) which shall take effect on July 1, 2022.

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

An act relating to reforming the State Board of Education.

(Committee vote: 6-0-0)

S. 190.

An act relating to the Standard Offer Program.

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

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

Sec. 1. 30 V.S.A. § 8009 is amended to read:

§ 8009. BASELOAD RENEWABLE POWER PORTFOLIO
REQUIREMENT

(a) ~~In~~ As used in this section:

(1) “Baseload renewable power” means a plant that generates electricity from renewable energy; that, during normal operation, is capable of taking all or part of the minimum load on an electric transmission or distribution system; and that produces electricity essentially continuously at a constant rate.

(2) “Baseload renewable power portfolio requirement” means an annual average of 175,000 MWh of baseload renewable power from an in-state woody biomass plant that was commissioned prior to September 30, 2009, has a nominal capacity of 20.5 MW, and was in service as of January 1, 2011.

(3) “Biomass” means organic nonfossil material of biological origin constituting a source of renewable energy within the meaning of subdivision 8002~~(17)~~(21) of this title.

(4) [Repealed.]

(b) Notwithstanding subsection 8004(a) and subdivision 8005~~(d)~~(c)(1) of this title, commencing November 1, 2012, the electricity supplied by each Vermont retail electricity provider to its customers shall include the provider’s pro rata share of the baseload renewable power portfolio requirement, which shall be based on the total Vermont retail kWh sales of all such providers for the previous calendar year. The obligation created by this subsection shall cease on November 1, ~~2022~~ 2032.

(c) A plant used to satisfy the baseload renewable power portfolio requirement shall be a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292.

(d) The On or before January 1, 2022, the Commission shall determine, for the period beginning on November 1, 2022, and ending on November 1, 2032, the price to be paid to a plant used to satisfy the baseload renewable power portfolio requirement. The Commission shall not be required to make this determination as a contested case under 3 V.S.A. chapter 25. The price shall be the avoided cost of the Vermont composite electric utility system. In this subsection, the term “avoided cost” means the incremental cost to retail electricity providers of electric energy or capacity, or both, which, but for the purchase from the plant proposed to satisfy the baseload renewable power portfolio requirement, such providers would obtain from a source using the same generation technology as the proposed plant. In this subsection, the term “avoided cost” also includes the Commission’s consideration of each of the following:

(1) The relevant cost data of the Vermont composite electric utility system.

(2) The terms of the potential contract, including the duration of the obligation.

(3) The availability, during the system’s daily and seasonal peak periods, of capacity or energy from a proposed plant.

(4) The relationship of the availability of energy or capacity from the proposed plant to the ability of the Vermont composite electric utility system or a portion thereof to avoid costs.

(5) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from the proposed plant.

(6) The supply and cost characteristics of the proposed plant, including the costs of operation and maintenance of an existing plant during the term of a proposed contract.

(7) Mechanisms for encouraging dispatch of the proposed plant relative to the ISO New England wholesale energy price and value of regional renewable energy credits, while also respecting the physical operating parameters and fixed costs of the proposed plant.

(8) The fuel supply for the proposed plant is obtained from ecologically sound and sustainable sources. In the case of biomass, this shall include an assessment of whether fuel supplies use ecologically sound harvesting

practices and whether they promote a diverse and sustainable forest economy in the region.

(9) The appropriate assignment of risks associated with the ISO New England Forward Capacity Market Pay-for-Performance Project.

(10) Any potential opportunities associated with having the proposed plant withdraw from the ISO New England Forward Capacity Market, while respecting the economic parameters of the proposed plant.

* * *

(i) The State and its instrumentalities shall not be liable to a plant owner or retail electricity provider with respect to any matter related to the baseload renewable power portfolio requirement or a plant used to satisfy such requirement, including costs associated with a contract related to such a plant or any damages arising from the breach of such a contract, the flow of power between a plant and the electric grid, or the interconnection of a plant to that grid. For the purpose of this section, the Commission and the Standard Offer Facilitator constitute instrumentalities of the State.

(j) The Commission shall authorize any agency participating in a proceeding under this section or in an order issued under this section to assess its costs against a proposed plant consistent with section 21 of this title.

(k) The Agency of Commerce and Community Development shall investigate the feasibility of utilizing the excess thermal energy generated by a plant used to satisfy the baseload renewable power portfolio requirement imposed under this section. Such investigation shall be done in consultation with the plant's owner, the Northeast Vermont Development Association, and other interested parties and shall consider the economic feasibility of utilizing the excess thermal energy generated by a plant and the economic development options available to the State to assist in the utilization of the excess thermal energy. On or before January 15, 2022 the Agency shall report on its investigation and any recommended legislation to the House Committees on Energy and Technology and on Commerce and Economic Development and the Senate Committees on Finance and on Economic Development, Housing and General Affairs.

(l) In considering the assessment of whether fuel supplies use ecologically sound harvesting practices and whether they promote a diverse and sustainable forest economy in the region, the Agency of Natural Resources shall provide input to the Commission regarding any recommended changes to the biomass harvesting practices associated with fuel supply, and the Commission shall incorporate such recommendations in the Order.

Sec. 2. TRANSITION PROVISION

All decisions and orders of the former Public Service Board and the Public Utility Commission in the matter *Investigation into the Establishment of a Standard-Offer Price for Baseload Renewable Power under the Sustainably Priced Energy Enterprise Development (“SPEED”) Program, Docket No. 7782*, shall remain in full force and effect through October 31, 2022.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 7-0-0)

S. 191.

An act relating to tax increment financing districts.

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

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

Sec. 1. TAX INCREMENT FINANCING; RESOLUTION ON THE USE OF DEBT PROCEEDS TO PAY FOR DEBT SERVICE

In 2019, the State Auditor of Accounts performed and reported on required reviews and audits of tax increment financing districts. One of the issues raised in the reporting was whether it is permissible for a tax increment financing district to use debt proceeds to meet debt service obligations. The General Assembly seeks to address this issue and clarify tax increment financing laws for the future. Accordingly, the General Assembly shall not assess penalties on any tax increment financing district that used debt proceeds to pay for debt service during the period from January 1, 2006 to June 30, 2020 and considers this a final resolution of the issue.

Sec. 2. 24 V.S.A. § 1891 is amended to read:

§ 1891. DEFINITIONS

When used in this subchapter:

* * *

(4) “Improvements” means the installation, new construction, or reconstruction of infrastructure that will serve a public purpose and fulfill the purpose of tax increment financing districts as stated in section 1893 of this subchapter, including utilities, transportation, public facilities and amenities, land and property acquisition and demolition, and site preparation.

“Improvements” also means the funding of debt service interest payments for a period of up to five years, beginning on the date in which the first debt is incurred.

* * *

(7) “Financing” means debt incurred, including principal, interest, and any fees or charges directly related to that debt, or other instruments or borrowing used by a municipality to pay for improvements in a tax increment financing district, only if authorized by the legal voters of the municipality in accordance with section 1894 of this subchapter. Payment for the cost of district improvements and related costs may also include direct payment by the municipality using the district increment. However, such payment is also subject to a vote by the legal voters of the municipality in accordance with section 1894 of this subchapter and, if not included in the tax increment financing plan approved under subsection 1894(d) of this subchapter, is also considered a substantial change and subject to the review process provided by subdivision 1901(2)(B) of this subchapter. If interfund loans within the municipality are used as the method of financing, no interest shall be charged. Bond anticipation notes may be used as a method of financing and may qualify as a district’s first incurrence of debt. A municipality that uses a bond anticipation note during the fourth year or tenth year that a district may incur debt pursuant to section 1894 of this title shall incur all permanent financing not more than one year after issuing the bond anticipation note.

Sec. 3. 24 V.S.A. § 1895 is amended to read:

§ 1895. ORIGINAL TAXABLE VALUE

(a) Certification. As of the date the district is created, the lister or assessor for the municipality shall certify the original taxable value and shall certify to the legislative body in each year thereafter during the life of the district the amount by which the total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the tax increment financing district has increased or decreased relative to the original taxable value.

(b) Boundary of the district. Any parcel within a district shall be located wholly within the boundaries of a district. No adjustments to the boundary of a district are permitted after the approval of a tax increment financing district plan as described in section 1894 of this title.

Sec. 4. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT
FINANCING DISTRICTS

(a) A tax agreement or exemption shall affect the education property tax grand list of the municipality in which the property subject to the agreement is located if the agreement or exemption is:

* * *

(b)(1) An agreement affecting the education property tax grand list defined under subsection (a) of this section shall reduce the municipality's education property tax liability under this chapter for the duration of the agreement or exemption without extension or renewal, and for a maximum of 10 years. A municipality's property tax liability under this chapter shall be reduced by any difference between the amount of the education property taxes collected on the subject property and the amount of education property taxes that would have been collected on such property if its fair market value were taxed at the equalized nonhomestead rate for the tax year.

(2) Notwithstanding any other provision of law, if a municipality has entered into an agreement that reduces the municipality's education property tax liability under this chapter and the municipality establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5, the municipality's municipal and education tax increment shall be calculated based on the assessed value of the properties in the municipality's grand list and not on the stabilized value.

* * *

(f) A municipality that establishes a tax increment financing district under 24 V.S.A. chapter 53, subchapter 5 shall collect all property taxes on properties contained within the district and apply not more than 70 percent of the State education property tax increment, and not less than 85 percent of the municipal property tax increment, to repayment of financing of the improvements and related costs for up to 20 years pursuant to 24 V.S.A. § 1894, if approved by the Vermont Economic Progress Council pursuant to this section, subject to the following:

* * *

(4) In any year that the assessed valuation of real property in a district decreases in comparison to the original taxable value of the real property in a district, a municipality shall pay the amount equal to the tax calculated based on the original taxable value to the Education Fund.

* * *

Sec. 5. 32 V.S.A. § 5404a is amended to read:

§ 5404a. TAX STABILIZATION AGREEMENTS; TAX INCREMENT
FINANCING DISTRICTS

* * *

(h) To approve utilization of incremental revenues pursuant to subsection (f) of this section, the Vermont Economic Progress Council shall do all the following:

* * *

(4) Project criteria. Determine that the proposed development within a tax increment financing district will accomplish at least three of the following five criteria:

(A) The development within the tax increment financing district clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures.

(B) The development includes new or rehabilitated affordable housing, as defined in 24 V.S.A. § 4303.

(C) The project will affect the remediation and redevelopment of a brownfield located within the district. In the case of a brownfield, the Vermont Economic Progress Council is authorized to adopt rules pursuant to subsection (j) of this section to clarify what is a reasonable improvement, as defined in 24 V.S.A. § 1891, to remediate and stimulate the development or redevelopment in the district. As used in this section, “brownfield” means an area in which a hazardous substance, pollutant, or contaminant is or may be present, and that situation is likely to complicate the expansion, development, redevelopment, or reuse of the property.

* * *

Sec. 6. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except that Sec. 3 shall take effect on July 1, 2021.

(Committee vote: 6-0-1)

S. 226.

An act relating to statewide public school employee health benefits.

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

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

Sec. 1. 16 V.S.A. § 2101 is amended to read:

§ 2101. DEFINITIONS

As used in this chapter:

(1) “Participating employee” means a school employee who is eligible for and has elected to receive health benefit coverage through a school employer.

(2) “School employee” means:

(A) includes the following individuals:

(i) an individual employed by a ~~supervisory union or school district~~ employer as a teacher or administrator as defined in section 1981 of this title; ~~or~~

(ii) a municipal school employee as defined in 21 V.S.A. § 1722;

(iii) an individual employed as a supervisor as defined in 21 V.S.A. § 1502;

(iv) a confidential employee as defined in 21 V.S.A. § 1722;

(v) a certified employee of a school employer; and

(vi) any other permanent employee of a school employer not covered by subdivisions (i)-(v) of this subdivision (2); and

(B) notwithstanding subdivision (A) of this subdivision (2), excludes individuals who serve in the role of superintendent.

(3) “School employer” means a supervisory union or school district as those terms are defined in section 11 of this title.

Sec. 2. 16 V.S.A. § 2102 is amended to read:

§ 2102. COMMISSION ON PUBLIC SCHOOL EMPLOYEE HEALTH BENEFITS CREATED

(a) Commission created. There is created an independent commission to be called the Commission on Public School Employee Health Benefits

(Commission) to determine, in accordance with section 2103 of this chapter, the amounts of the premiums and out-of-pocket expenses for school employee health benefits that shall be borne by school employers and by participating employees.

(b) Composition and appointment.

(1) The Commission shall have 10 members, of whom five shall be representatives of school employees and five shall be representatives of school employers.

(2)(A) The representatives of school employees shall be appointed as follows:

(i) four members appointed by the labor organization representing the greatest number of ~~teachers, administrators, and municipal~~ school employees in this State; and

(ii) one member appointed by the labor organization representing the second-greatest number of ~~teachers, administrators, and municipal~~ school employees in this State.

(B) The five representatives of school employers shall be appointed by the organization representing the majority of ~~the~~ public school boards in this State.

(C) The appointing authorities shall select appointees who have an understanding of health care and employer-employee relations and who demonstrate a willingness to work collaboratively.

(D) The term of each member of the Commission shall be six years, provided that of the members first appointed by the labor organization described in subdivision (A)(i) of this subdivision (2), one appointee shall serve a term of two years and one appointee shall serve a term of four years, and of the members first appointed by the organization representing the majority of the public school boards in this State, one appointee shall serve a term of two years and one appointee shall serve a term of four years.

(3) In the event of a vacancy, the appointing authority of the member whose seat becomes vacant shall appoint a successor to serve out the remainder of the member's term.

(c) Chairs. The Commission shall be chaired jointly by one member selected biennially by the representatives of school employees and one member selected biennially by the representatives of school employers.

(d) Removal of Commission members. Members of the Commission may be removed by the Commission only for cause and may be removed by the

appointing authority of the member without cause. The Commission shall adopt rules pursuant to 3 V.S.A. chapter 25 to define the basis and process for removal.

(e) Decisions. All decisions of the Commission shall require the votes of a majority of the representatives of school employees and a majority of the representatives of school employers.

(f) Compensation. Commission members shall be entitled to receive per diem compensation and reimbursement of expenses ~~pursuant to~~ as permitted under 32 V.S.A. § 1010 for not more than 10 meetings per year.

(g) Release time. A school district that employs a member of the Commission, or an alternate member of the Commission under subsection (j) of this section, who represents school employees or school employers shall grant the Commission member time off as necessary for the member to attend meetings of the Commission.

(h) Staffing and expenses. The Commission may hire staff as it deems necessary to carry out its duties under this chapter. Compensation for Commission staff and administrative expenses of the Commission shall be shared equally by school employers and school employees. The representatives of school employers and the representatives of school employees shall equitably apportion their share of the costs of compensation and administrative expenses among their members.

~~(h)~~(i) Rulemaking. The Commission may adopt rules or procedures, or both, pursuant to 3 V.S.A. chapter 25 as needed to carry out its duties under this chapter.

(j) Alternate members. Four alternate members may be appointed to the Commission who, if appointed, shall be entitled to attend all negotiating sessions of the Commission. Up to two alternate members may be appointed by representatives of school employees and up to two alternate members may be appointed by representatives of school employers. The term of each alternate member, if appointed, shall be six years. In the event of a vacancy, the appointing authority of the alternate member whose seat becomes vacant shall appoint a successor to serve out the remainder of the alternate member's term. Alternate members may be removed by the Commission only for cause and may be removed by the appointing authority of the alternate member without cause.

(k) Appropriations. The sum of \$17,500.00 is appropriated to the Commission from the General Fund for fiscal year 2021 for per diem compensation and reimbursement of expenses for members of the

Commission. The Commission shall request the Governor to include in the Governor's annual budget request the same amount for the same purpose. Any unused appropriation in any year shall revert to the General Fund.

Sec. 3. 16 V.S.A. § 2103 is amended to read:

§ 2103. DUTIES OF THE COMMISSION

(a) The Commission shall determine the percentage of the premium for individual, two-person, parent-child, and family coverage under a health benefit plan that shall be borne by each school employer and the percentage that shall be borne by participating employees.

(1) The premium responsibility percentages shall remain in effect for the entire plan year.

(2) Each school employer shall be responsible for paying, on behalf of all of its participating school employees, the applicable percentages of premium costs as determined by the Commission.

~~(3) The premium responsibility percentages for each plan tier shall be the same for all participating employees.~~

(b)(1) The Commission shall determine the amount of ~~school~~ participating employees' out-of-pocket expenses for which the school employer and the ~~school~~ participating employees shall be responsible, and whether school employers shall establish a health reimbursement arrangement, a health savings account, both, or neither, for their participating employees.

(2) The Commission also shall determine the extent to which the employer or employee shall bear first dollar responsibility for out-of-pocket expenses if using a health reimbursement arrangement and whether the balance in a participating employee's health reimbursement arrangement shall roll over from year to year.

~~(3) The school employers' and school participating employees' responsibilities for out-of-pocket expenses for each plan tier shall be the same for all participating employees.~~

(c) The Commission may make recommendations regarding health benefit plan design to any intermunicipal insurance association that offers health benefit plans to entities providing educational services pursuant to 24 V.S.A. chapter 121, subchapter 6.

(d) The Commission shall not make any determinations regarding school employer or ~~school~~ participating employee responsibilities with respect to stand-alone vision or dental benefits.

(e) The Commission may negotiate a State-wide grievance procedure for disputes concerning public school employee health benefits.

Sec. 4. 16 V.S.A. § 2104 is amended to read:

§ 2104. NEGOTIATION; TIME TO BEGIN; GOOD FAITH; WRITTEN AGREEMENT

(a)(1) The Commission shall commence negotiation of the matters set forth in subsections 2103(a) and (b) of this chapter not later than April 1 of the year before the existing agreement pursuant to this section is set to expire. On or before October 1 of the year prior to commencement of bargaining, the Commission shall request from the parties any data and information that it anticipates needing for the negotiation, in a common format, and, on or before February 1 of the year of bargaining, the parties shall submit to the Commission the information requested.

(2) The Commission shall meet together at reasonable times at the call of the Chairs and shall negotiate in good faith on all matters set forth in subsections 2103(a) and (b) of this chapter.

(3)(A) The Commission shall select a person to serve as a fact finder to assist it in resolving any matters remaining in dispute in the event that the Commission is unable to reach an agreement by August 1. The fact finder shall be selected by a vote of a majority of the representatives of school employees and of a majority of the representatives of school employers. If the Commission cannot agree on a fact finder by April 5, the American Arbitration Association shall be asked to appoint the fact finder.

(B)(i) The Commission shall mutually agree on an arbitrator by April 5 to decide all matters remaining in dispute if it is unable to reach an agreement within 30 days after receiving the fact finder's report.

(ii) If the Commission is unable to mutually agree on an arbitrator, it shall form a three-member panel of arbitrators to be selected as follows:

(I) One arbitrator shall be selected by the representatives of school employees from a list prepared by the American Arbitration Association.

(II) One arbitrator shall be selected by the representatives of school employers from a list prepared by the American Arbitration Association.

(III) The Commission shall request the services of the American Arbitration Association for the appointment of the third arbitrator.

(b)(1) The Commission shall enter into a written agreement incorporating all matters agreed to in negotiation.

(2) The terms of the agreement shall be incorporated by reference into all collective bargaining agreements for school employees.

(c) The term of each agreement shall be negotiated by the Commission but shall not be less than two years.

Sec. 5. 16 V.S.A. § 2105 is amended to read:

§ 2105. DISPUTE RESOLUTION

(a)(1) If the Commission is unable to reach agreement by August 1, the Commission shall meet with the fact finder selected pursuant to section 2104 of this chapter not later than August 15.

(2) The fact finder may schedule and hold additional meetings with the Commission as necessary. The Commission shall furnish the fact finder with all records, papers, and information in its possession pertaining to any matter remaining in dispute.

(3) The fact finder shall, before issuing his or her decision, attempt to mediate the matters remaining in dispute.

(4) If the mediation fails to produce an agreement, the fact finder shall, on or before September 15, submit a written report to the Commission recommending a reasonable basis for the settlement of the matters remaining in dispute.

(b)(1) If the Commission is unable to resolve all matters remaining in dispute within 30 days after receiving the fact finder's report, the Commission shall submit the matters remaining in dispute to the arbitrator or arbitrators selected pursuant to section 2104 of this chapter for resolution.

(2) The representatives of school employees and the representatives of school employers shall submit to the arbitrator or arbitrators their last best offer on all issues remaining in dispute prior to the arbitration hearing. The arbitrator or arbitrators shall select one of the last best offers without amendment, submitted by the parties prior to the arbitration hearing in its entirety without amendment. The parties shall not be permitted to modify their last best offers post-hearing. Prior to the issuance of the arbitrator's decision, nothing shall prohibit the parties from settling the matters in dispute.

(3)(A) The arbitrator or arbitrators shall hold a hearing on or before November 15 at which the Commission members shall submit all relevant evidence, documents, and written material, including a cost estimate for the term of the proposal with a breakdown of costs borne by employers and costs

borne by employees, and each member may submit oral or written testimony in support of his or her position on any undecided issue that is subject to arbitration.

(B) In reaching a decision, the arbitrator or arbitrators shall give weight to the evidence, documents, written material, and arguments presented, as well as the following factors:

(i) the interests and welfare of the public;

(ii) the financial ability of the Education Fund and school districts across the State to pay for the costs of health care benefits and coverage;

(iii) comparisons of the health care benefits of school employees with the health care benefits of similar employees in the public and private sectors in Vermont;

(iv) the average consumer prices for goods and services commonly known as the cost of living; and

(v) prior and existing health care benefits and coverage for school employees.

(4) The arbitrator or arbitrators shall issue their written decision within 30 days after the hearing, explaining in appropriate detail the rationale for selecting the last best offer. The decision of the arbitrator or arbitrators shall be final and binding upon the Commission and all school employees and school employers. The decision shall not be subject to ratification.

(5) Upon the petition of a Commission member within not more than 15 days following the arbitration decision, a Superior Court shall vacate the decision if:

(A) it was procured by corruption, fraud, or other undue means;

(B) there was evident partiality or prejudicial misconduct by the arbitrator or arbitrators;

(C) the arbitrator or arbitrators exceeded their power or rendered a decision requiring a person to commit an act or engage in conduct prohibited by law; or

(D) there is an absence of substantial evidence on the record as a whole to support the decision.

(6) At any time prior to the issuance of a decision by the arbitrator or arbitrators, the Commission may notify the arbitrator or arbitrators of any additional issues on which a majority of the representatives of school

employees and of the representatives of school employers have reached agreement.

(7) If any provision of this subsection is inconsistent with any other provision of law governing arbitration, this subsection shall govern.

(c) The arbitrator or arbitrators shall have the authority to address complaints that either party has engaged in or is engaging in unfair bargaining practices, including a refusal to bargain in good faith. If the arbitrator or arbitrators find upon a preponderance of the evidence that a party has engaged in or is engaging in any unfair bargaining practice, the arbitrator or arbitrators may include in the decision a remedy for the unfair bargaining practice that is consistent with the provisions of 21 V.S.A. § 1727(d).

Sec. 6. 16 V.S.A. § 2106 is amended to read:

§ 2106. STRIKES AND CONTRACT IMPOSITION PROHIBITED

(a) School employees and the representatives of school employees shall be prohibited from engaging in a strike, as defined by 21 V.S.A. § 1722(16), in relation to the negotiation of an agreement pursuant to this chapter.

(b) The representatives of school employers shall be prohibited from imposing the terms of the agreement that is subject to this chapter.

Sec. 7. 16 V.S.A. § 2107 is amended to read:

§ 2107. RATIFICATION OF AGREEMENT

(a) The representatives of school employers and the representatives of school employees shall each develop procedures by which their members shall ratify the agreement entered into by the Commission pursuant to this chapter within 30 days after the date of the agreement; provided, however, that if the agreement is determined by arbitration pursuant to subsection 2105(b) of this chapter, the agreement shall not be subject to ratification.

(b) In the event that either the school employers or school employees, or both, fail to ratify the agreement, the following provisions shall apply:

(1) If the Commission has not engaged in mediated fact-finding pursuant to subsection 2105(a) of this chapter during the current negotiation cycle, the Commission shall meet with the fact finder pursuant to the provisions of that subsection to settle all matters remaining in dispute. If the Commission is able to reach a new agreement, that agreement shall be submitted to the bargaining units for ratification. If, after mediated fact-finding, the Commission is unable to reach a new agreement, the Commission shall proceed to arbitration pursuant to subsection 2105(b) of this chapter.

(2) If the Commission has already engaged in mediated fact-finding pursuant to subsection 2105(a) of this chapter during the current negotiation cycle, the Commission shall proceed to arbitration pursuant to subsection 2105(b) of this chapter.

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-1)

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

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

First: In Sec. 2, 16 V.S.A. § 2102 (Commission on Public School Employee Health Benefits Created), by striking out subsection (k) in its entirety and inserting in lieu thereof the following:

(k) Funding. The Commission shall request the Governor to include in the Governor's annual budget a minimum of \$17,500.00 appropriated to the Agency of Education for per diem compensation and reimbursement of expenses for members of the Commission. Any unencumbered appropriation shall revert to the General Fund in the year following the conclusion of an agreement under subdivision 2104(b)(1) of this title.

Second: By adding a new Sec. 2a to read as follows:

Sec. 2a. APPROPRIATION

The sum of \$17,500.00 is appropriated to the Agency of Education from the General Fund for fiscal year 2021 for per diem compensation and reimbursement of expenses for members of the Commission.

(Committee vote: 6-0-1)

NOTICE CALENDAR

Second Reading

Favorable with Recommendation of Amendment

S. 185.

An act relating to the adoption of a climate change response plan.

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

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

* * * Climate Change Response Plan * * *

Sec. 1. 18 V.S.A. chapter 35 is added to read:

CHAPTER 35. PUBLIC HEALTH RESPONSE TO CLIMATE CHANGE

§ 1711. CLIMATE CHANGE RESPONSE PLAN

The Department of Health, in collaboration with the Chief Prevention Officer established pursuant to 3 V.S.A. § 2321, shall develop and adopt a statewide climate change response plan to foster resilience to the impacts of climate change in Vermont.

(1) Using a public health model, the Department's response plan shall seek to prevent and mitigate public health risks caused by climate change in Vermont, with particular attention shown to vulnerable populations, including:

- (A) infants and young children;
- (B) elders;
- (C) persons with physical disabilities;
- (D) persons with a chronic or existing medical condition;
- (E) persons with low income;
- (F) persons who are homeless or lack access to transportation;
- (G) persons living in flood plains; and
- (H) persons whose employment occurs primarily outdoors.

(2) The response plan shall provide actionable strategies specific to both rural and urban communities in the State, including specific strategies that address:

- (A) mental health;
- (B) vector-borne diseases;
- (C) waterborne and foodborne diseases;
- (D) hot weather;
- (E) cyanobacteria;
- (F) extreme storm events; and
- (G) air pollution and pollen.

§ 1712. CLIMATE CHANGE RESPONSE COMMUNICATION

The Department of Health, in coordination with the regional planning commissions, regional emergency management providers, and the Citizens Assistance Registry for Emergencies, shall develop a plan and communicate with both Vermont communities and each other for the purpose of mitigating and responding to climate change related public health risks in Vermont.

Sec. 2. REPORT; CLIMATE CHANGE RESPONSE PLAN

On or before July 1, 2021, the Department of Health shall submit the climate change response plan adopted pursuant to 18 V.S.A. § 1711 to the House Committees on Health Care and on Human Services and to the Senate Committee on Health and Welfare.

* * * Regional Planning Commission Involvement in Identifying
Health Care-Related Needs * * *

Sec. 3. 24 V.S.A. § 4345a is amended to read:

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

(21) Consult with and assist hospitals licensed pursuant to 18 V.S.A. chapter 43 regarding the development of health needs assessments and other initiatives as needed in accordance with 18 V.S.A. § 9405a.

(22) Consult with and assist the Agency of Human Services, Department of Health, and Vermont Emergency Management to incorporate public health and safety concerns related to climate change into State and local emergency and hazard mitigation, response, and recovery plans.

Sec. 4. 18 V.S.A. § 9405a is amended to read:

§ 9405a. PUBLIC PARTICIPATION AND STRATEGIC PLANNING

(a) Each hospital shall have a protocol for meaningful public participation in its strategic planning process for identifying and addressing health care needs that the hospital provides or could provide in its service area. Regional planning commissions shall be available for consultation and assistance pursuant to 24 V.S.A. § 4345a. Needs identified through the process shall be integrated with the hospital's long-term planning. Each hospital shall post on its website a description of its identified needs, strategic initiatives developed to address the identified needs, annual progress on implementation of the proposed initiatives, opportunities for public participation, and the ways in which the hospital ensures access to appropriate mental health care that meets standards of quality, access, and affordability equivalent to other components

of health care as part of an integrated, holistic system of care. Hospitals may meet the community health needs assessment and implementation plan requirement through compliance with the relevant Internal Revenue Service community health needs assessment requirements for nonprofit hospitals.

* * *

* * * Effective Date * * *

Sec. 5. 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 adopting a climate change response plan and regional planning commission involvement in identifying health care-related needs.

(Committee vote: 5-0-0)

S. 197.

An act relating to prohibiting discrimination based on genetic information.

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

The Committee recommends that the bill be amended as follows:

First: By striking out Sec. 3, 18 V.S.A. § 9334, in its entirety and inserting in lieu thereof a new Sec. 3 to read as follows:

Sec. 3. 18 V.S.A. § 9334 is amended to read:

§ 9334. GENETIC TESTING AS A CONDITION OF INSURANCE COVERAGE

(a) No policy of insurance offered for delivery or issued in this State shall be underwritten or conditioned on the basis of:

(1) any requirement or agreement of the individual to undergo genetic testing; ~~or~~

(2) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

(3) ~~the results of genetic testing of~~ genetic information of a member of the individual's family.

* * *

Second: By striking out Sec. 4, 8 V.S.A. § 3702, in its entirety and inserting in lieu thereof a new Sec. 4 to read as follows:

Sec. 4. 8 V.S.A. § 3702 is amended to read:

§ 3702. OTHER PROHIBITED PRACTICES

A life insurance company doing business in the State or an agent thereof shall not do any of the following:

(1) ~~issue~~ Issue a policy of insurance or make an agreement other than that plainly expressed in the policy issued to the insured;

(2) ~~pay~~ Pay or allow, or offer to pay or allow, as an inducement to insurance, a rebate or premium payable on the policy;

(3) ~~grant~~ Grant a special favor or advantage in the dividends or other benefits to accrue thereon; ~~or.~~

(4) ~~provide~~ Provide any valuable consideration or inducement not specified in the policy.

(5)(A) Condition insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for any individual on:

(i) any requirement or agreement of the individual to undergo genetic testing;

(ii) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

(iii) the genetic information of a member of the individual's family.

(B) As used in this subdivision (5), "genetic testing" and "genetic information" have the same meaning as in 18 V.S.A. § 9331.

(C) Notwithstanding subdivisions (A) and (B) of this subdivision (5), a life insurance company or its agent may condition insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for an individual on the individual's family medical history, including the manifestation of a disease or disorder in one or more family members of the individual, provided that there is a relationship between the individual's family medical history and the cost of the insurance risk that the insurer would assume by insuring the individual. In demonstrating the relationship, the insurer can rely on actual or reasonably anticipated experience.

(6) Request, require, purchase, or use information obtained from an entity providing direct-to-consumer genetic testing without the informed written consent of the individual who has been tested.

Third: By striking out Sec. 5, 8 V.S.A. § 4724, in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. 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.

* * *

(D) Making or permitting any unfair discrimination against any individual by conditioning insurance rates, the provision or renewal of insurance coverage, or other conditions of insurance based on medical information, ~~including the results of genetic testing~~, where there is not a relationship between the medical information and the cost of the insurance risk that the insurer would assume by insuring the proposed insured. In demonstrating the relationship, the insurer can rely on actual or reasonably anticipated experience. ~~As used in this subdivision, “genetic testing” shall be defined as the term is defined in 18 V.S.A. § 9331(7).~~

* * *

(F)(i) Making or permitting any unfair discrimination against any individual by conditioning insurance rates, the provision or renewal of insurance coverage, or other conditions of insurance on:

(I) any requirement or agreement of the individual to undergo genetic testing;

(II) genetic information of the individual that may be associated with a potential genetic condition in that individual, but which has not resulted in a diagnosed condition in the individual; or

(III) the genetic information of a member of the individual’s family.

(ii) As used in this subdivision (7)(F), “genetic testing” and “genetic information” have the same meaning as in 18 V.S.A. § 9331.

* * *

(22) Genetic testing.

(A) Conditioning insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for any individual on:

(i) any requirement or agreement of the individual to undergo genetic testing; or

(ii) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

(iii) ~~the results of genetic testing~~ genetic information of a member of the individual's family ~~unless the results are contained in the individual's medical record.~~

(B) As used in this subdivision (22), "genetic testing" ~~shall be defined as the term is defined~~ and "genetic information" have the same meaning as in 18 V.S.A. § 9331(7) 9331.

Fourth: By striking out Sec. 7, 8 V.S.A. § 8086, in its entirety and inserting in lieu thereof a new Sec. 7 to read as follows:

Sec. 7. 8 V.S.A. § 8086 is amended to read:

§ 8086. PREEXISTING CONDITIONS; GENETIC TESTING

* * *

(b)(1) No long-term care insurance policy or certificate may exclude coverage for a loss or confinement which is the result of a preexisting condition, unless such loss or confinement begins within six months following the effective date of coverage of an insured person.

(2)(A) No long-term care insurance policy or certificate may condition insurance rates, the provision or renewal of insurance coverage or benefits, or other conditions of insurance for any individual on:

(i) any requirement or agreement of the individual to undergo genetic testing;

(ii) genetic information of the individual that may be associated with a potential genetic condition in that individual but that has not resulted in a diagnosed condition in the individual; or

(iii) the genetic information of a member of the individual's family.

(B) As used in this subdivision, “genetic testing” and “genetic information” have the same meaning as in 18 V.S.A. § 9331.

* * *

(Committee vote: 4-1-0)

S. 220.

An act relating to educating specified professionals on the State’s energy goals.

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

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

* * * Office of Professional Regulation * * *

Sec. 1. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

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

* * *

(28) Audiologists and Hearing Aid Dispensers

* * *

(41) ~~Audiologists and~~ Speech-Language Pathologists

* * *

Sec. 2. 3 V.S.A. § 123 is amended to read:

§ 123. DUTIES OF OFFICE

(a) The Office shall provide administrative, secretarial, financial, investigatory, inspection, and legal services to the boards. The services provided by the Office shall include:

* * *

(12) With the assistance of the boards, establishing a schedule of license renewal and termination dates so as to distribute the renewal work in the Office as effectively as possible.

(A) Licenses may be issued and renewed according to that schedule for periods of up to two years ~~with an appropriate pro-rata adjustment of fees.~~

(B) A person whose initial license is issued within 90 days prior to the set renewal date shall not be required to renew the license until the end of the first full biennial licensing period following initial licensure.

* * *

(i)(1) The Director shall actively monitor the actions of boards attached to the Office and shall ensure that all board actions pursued or decided are lawful, consistent with State policy, reasonably calculated to protect the public, and not an undue restraint of trade.

(2) If the Director finds a an exercise of board action authority or discretion does not meet those standards, the Director may, except in the case of disciplinary actions:

(A) provide written notice to the board explaining the perceived inconsistency, which notice shall have the effect of staying that action and implementing any alternative prescribed by the Director;

(B) schedule a public meeting with the board to resolve questions about the action and explore alternatives; and

(C) within 60 days following that meeting, issue a written directive finding that:

(i) ~~the action~~ exercise of board authority or discretion is consistent with State policy, in which case the action shall be reinstated;

(ii) ~~the action~~ exercise of board authority or discretion is inconsistent with State policy in form, but may be modified to achieve consistency, in which case the board may issue a modified action consistent with the Director's recommendation; or

(iii) ~~the action~~ exercise of board authority or discretion is inconsistent with State policy in purpose, in which case ~~the board shall terminate efforts to implement the action and shall not spend further funds toward its implementation~~ any alternative prescribed by the Director shall stand as the regulatory policy of the State.

(j)(1) The Office may inquire into the criminal background histories of applicants for initial licensure and for ~~biennial~~ license renewal for the following professions:

(A) licensed nursing assistants, licensed practical nurses, registered nurses, and advanced practice registered nurses licensed under 26 V.S.A. chapter 28;

(B) private investigators, security guards, and other persons licensed under 26 V.S.A. chapter 59;

(C) real estate appraisers and other persons or business entities licensed under 26 V.S.A. chapter 69; and

(D) osteopathic physicians licensed under 26 V.S.A. chapter 33.

(2)(A) The Office may inquire directly of the Vermont Crime Information Center, the Federal Bureau of Investigation, the National Crime Information Center, or other holders of official criminal record information, and may arrange for such inquiries to be made by a commercial service.

~~(B) Background checks may be fingerprint-supported, and fingerprints so obtained may be retained on file and used to notify the Office of future triggering events.~~

~~(3) Applicants subject to background checks shall be notified that a check is required, if fingerprints will be retained on file, and that criminal convictions are not an absolute bar to licensure, and shall be provided such other information as may be required by federal law or regulation. Prior to acting on an initial or renewal application, the Office may obtain with respect to the applicant a Vermont criminal history record, an out-of-state criminal history record, and a criminal history record from the Federal Bureau of Investigation. Federal Bureau of Investigation background checks shall be fingerprint-supported, and fingerprints so obtained may be retained on file and used to notify the Office of future triggering events. Each applicant shall consent to the release of criminal history records to the Office on forms developed by the Vermont Crime Information Center.~~

(k) When, by reason of disqualification, resignation, vacancy, or necessary absence, a board is unable to form a quorum or assign one or more members to assist in the investigation and prosecution of complaints or license applications, or to adjudicate a contested case, the Secretary of State may appoint ad hoc members, either as voting members to establish a quorum at a specific meeting or as nonvoting members to assist Office investigators and prosecutors.

Sec. 3. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

* * *

(b) Unless otherwise provided by law, the following fees shall apply to all professions regulated by the Director in consultation with advisor appointees under Title 26:

(1) Application for registration, \$75.00, except application for:

(A) Private investigator and security services employees, unarmed registrants, \$60.00.

(B) Private investigator and security service employees, transitory permits, \$60.00.

(C) Private investigator and security service employees, armed registrants, \$120.00.

(2) Application for licensure or certification, \$100.00, except application for:

* * *

(F) Private investigator or security services agency, \$340.00.

(G) Private investigator and security services agency, \$400.00.

(H) Private investigator or security services sole proprietor, \$250.00.

(I) Private investigator or security services unarmed licensee, \$150.00.

(J) Private investigator or security services armed licensee, \$200.00.

(K) Private investigator and security services instructor, \$120.00.

(3) Optician trainee registration, \$50.00.

(4) Biennial renewal, \$240.00, except biennial renewal for:

* * *

(M) Private investigator or security services agency, or both, \$300.00.

(N) Private investigator or security services unarmed licensee, \$120.00.

(O) Private investigator or security services armed licensee, \$180.00.

(P) Private investigator or security services unarmed registrant, \$80.00.

(Q) Private investigator or security services armed registrant, \$130.00.

(R) Private investigator or security services sole proprietor, \$250.00.

(S) Private investigator or security services instructor, \$180.00.

* * *

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

§ 129. POWERS OF BOARDS OR OF DIRECTOR IN ADVISOR
PROFESSIONS; DISCIPLINE PROCESS

(a) In addition to any other provisions of law, a board or the Director, in the case of professions that have advisor appointees, may exercise the following powers:

* * *

(c)(1) Boards and administrative law officers sitting in disciplinary cases shall do so impartially and without ex parte knowledge of the case in controversy.

(2) A State prosecuting attorney assigned by the Office of Professional Regulation shall be responsible for prosecuting disciplinary cases before boards or administrative law officers.

* * *

(d) A board or the Director shall notify parties, in writing, of their right to appeal final decisions of the board. A board or the Director shall also notify complainants in writing of the result of any disciplinary investigation made with reference to a complaint brought by them to the board or Director. When a disciplinary investigation results in a stipulation filed with the board, the board or the Director shall provide the complainant with a copy of the stipulation and notice of the stipulation review scheduled before the board. The complainant shall have the right to be heard at the stipulation review.

(e)(1) When a board or the Director, in the case of professions that have advisor appointees, intends to deny an application for a license, the board or Director shall send the applicant written notice of the decision by certified mail. The notice shall include a statement of the reasons for the action and shall advise the applicant that the applicant may file a petition within 30 days of the date on which the notice is mailed with the board or the Director for review of its or his or her preliminary decision.

(2) At the hearing, the applicant shall bear the burden of proving that the preliminary denial should be reversed and that the license should be granted.

(3) After the hearing, the board or Director shall affirm or reverse the preliminary denial, explaining the reasons therefor in writing.

(f)(1)(A) ~~A board~~ The Director may appoint a hearing officer, who shall be an attorney admitted to practice in this State, to conduct a hearing that would otherwise be heard by ~~the a~~ board. A hearing officer appointed under this subsection may administer oaths and exercise the powers of the board properly incidental to the conduct of the hearing.

(B) When disciplinary charges are pending concurrently against a single individual or entity, in one profession or multiple, the Director is authorized to order that the matters be consolidated in a single proceeding.

(2) ~~When~~ In board professions, when a hearing is conducted by a hearing officer, the officer shall report findings of fact and conclusions of law to the board. The report shall be made within 60 days of the conclusion of the hearing unless the board grants an extension. The provisions of section 811 of this title regarding proposals for decision shall not apply to the hearing officer report.

(3) The board may take additional evidence and may accept, reject, or modify the findings and conclusions of the hearing officer. Judgment on the findings shall be rendered by the board.

* * *

(h)(1) A board member, hearing officer, or administrative law officer having a personal or pecuniary interest or the appearance of a personal or pecuniary interest in the outcome of any board decision shall not participate in deciding the matter.

(2)(A) A board member, hearing officer, or administrative law officer whose disqualification is sought shall either disqualify himself or herself or, without ruling on the request for disqualification, refer the request to the Secretary of State, who shall rule on the request.

(B) The ruling of the Secretary of State on a request for disqualification shall be final and shall be subject to review only upon appeal of a final order of a board under section 130a of this title or of an administrative law officer under subsection (j) of this section. ~~When a board is unable to convene a quorum by reason of disqualification, resignation, vacancy, or necessary absence, the Secretary of State shall appoint ad hoc members to serve on the board for that matter only, after consulting with the chair of the board involved. Ad hoc members shall have the same qualifications as required by law for the absent members.~~

* * *

(j) ~~Notwithstanding the provisions of section 130a of this title, hearings~~ Hearings involving denials of licensure or disciplinary matters concerning persons in professions that have advisor appointees shall be heard by an administrative law officer appointed by the Secretary of State.

(k)(1) Whenever completion of certain continuing education requirements is a condition of renewal, the board may require the applicant to develop and complete a specific corrective action plan, to be completed within 90 days.

(~~1~~)(2) A board may grant a temporary renewal license pending the completion of the required continuing education.

(l) Unless a disciplinary order expressly provides to the contrary, discipline against any license or credential issued by a regulatory body attached to the Office to an individual or entity shall be applicable as a matter of law to all other licenses issued to that licensee by that regulatory body.

* * *

* * * Accountants * * *

Sec. 5. 26 V.S.A. chapter 1 is amended to read:

CHAPTER 1. ACCOUNTANTS

* * *

Subchapter 2. Board of Public Accountancy

* * *

§ 54. GENERAL POWERS AND DUTIES OF THE BOARD

* * *

(c) ~~The Board annually may submit a proposed budget to the Secretary of State.~~ [Repealed.]

* * *

§ 56. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

* * *

(4) ~~Registration of foreign firm for temporary practice~~ \$
~~50.00~~ [Repealed.]

* * *

Subchapter 3. Licenses

* * *

§ 74. FIRMS; REGISTRATION AND OWNERSHIP

(a) A firm shall be required to obtain registration pursuant to this section if the firm:

* * *

(3) does not have an office in this State but performs services described in subdivision 13(1)(A)(i), (iii), or (iv) of this ~~title~~ chapter for a client with a home office in this State.

(b) A firm that does not have an office in this State may perform those services set forth in subdivision 13(1)(A)(ii), 13(1)(A)(v), or 13(3) of this chapter for a client with a home office in this State, may otherwise practice public accounting as authorized under this chapter, and may use the title “CPA” or “CPA firm” without a registration issued only if the firm:

(1) meets the qualifications set forth in subsections (c) and (d) of this section;

(2) meets the requirements of ~~section 75c~~ subsection 75(c) of this ~~title~~ chapter, as applicable; and

(3) performs services through an individual with practice privileges set forth under section 74c of this ~~title~~ chapter.

* * *

(d) Any CPA or RPA firm as defined in this chapter may include nonlicensee owners, provided that:

(1) The firm designates a licensee of this State or, in the case of a firm that is required to have a registration pursuant to subsection (a) of this section, a licensee who meets the requirements set forth in section 74c of this ~~title~~ chapter who is responsible for the proper registration of the firm, and identifies that individual to the Board.

* * *

(f) Any individual exercising practice privileges pursuant to section 74c of this ~~title~~ chapter, and who is responsible for supervising attest services and signs or authorizes someone to sign the accountant’s report on behalf of the firm, shall meet the experience and competency requirements set forth in the professional standards for those services.

* * *

Subchapter 4. Discipline

* * *

§ 78. DISCIPLINARY MATTERS

~~(a) In addition to other powers specifically established by law, the Board may:~~

~~(1) Refuse to accept the return of a license tendered by the subject of a disciplinary investigation;~~

~~(2) Refuse to license a person who is under investigation in another jurisdiction for an offense that would constitute unprofessional conduct in this State; and~~

~~(3) Issue warnings and reprimands, condition, suspend, revoke, or reinstate licenses, and order restitution to aggrieved consumers.~~

~~(b) The Board shall accept complaints from any member of the public, any licensee, any state or federal agency, or the Attorney General. The Board may initiate disciplinary action in any complaint against a licensee and may act without having received a complaint.~~

~~(c) After hearing, the Board may take disciplinary action against a licensee, registrant, or applicant found guilty of unprofessional conduct.~~

~~(d) On petition, the Board may reinstate any license or registration it earlier conditioned, revoked, or suspended.~~

~~(e) Appeals from final Board decisions shall be taken in accordance with 3 V.S.A. § 130a. [Repealed.]~~

* * * Funeral Services * * *

Sec. 6. 26 V.S.A. § 1252 is amended to read:

§ 1252. APPLICATION; QUALIFICATIONS

(a) Funeral director.

(1) Any person holding a high school certificate or its equivalent shall be entitled to take an examination as a funeral director provided that he or she has:

* * *

(3) Notwithstanding the provisions of subdivision (1)(A) of this subsection ~~(a)~~, the Director may by rule prescribe an alternative pathway to licensure for individuals who have not attended a school of funeral service but who have demonstrated through an approved program of apprenticeship and

study the skills deemed necessary by the Director to ensure competence as a funeral director.

(b) Embalmer.

(1) Any person holding a high school certificate or its equivalent shall be entitled to take an examination in embalming provided that he or she has:

* * *

(3) Notwithstanding the provisions of subdivision (1)(A) of this subsection, the Director may by rule prescribe an alternative pathway to licensure for individuals who have not attended a school of funeral service but who have demonstrated through an approved program of apprenticeship and study the skills deemed necessary by the Director to ensure competence as an embalmer.

* * *

* * * Nursing * * *

Sec. 7. 26 V.S.A. chapter 28 is amended to read:

CHAPTER 28. NURSING

Subchapter 1. General Provisions

* * *

§ 1573. VERMONT STATE BOARD OF NURSING

* * *

(c) Each member of the Board shall be a ~~citizen of the United States and a~~ resident of this State.

* * *

§ 1574. POWERS AND DUTIES

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

* * *

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

(A) After an opportunity for a hearing, the Board may deny or withdraw approval or take lesser action when a program fails to meet the rules requirements.

(B) The Board may reinstate a program whose approval has been denied or withdrawn when the Board is satisfied that deficiencies have been remedied and the requirements have been met.

(C) Standards for nursing education programs and clinical facilities shall:

(i) rely upon the standards of recognized national accrediting bodies without duplicating the function of those bodies;

(ii) call for the annual reporting of data, including graduation rates and examination pass rates, appropriate to verify that programs are capable of meeting national standards and sustaining responsible operation in the interests of the public; and

(iii) be waivable by the Director of Professional Regulation if the Director finds that a program has exhausted reasonable efforts to comply and that such waiver will not compromise a program's educational integrity.

(4) [Repealed.]

~~(A) After an opportunity for a hearing, the Board may deny or withdraw approval or take lesser action when a program fails to meet the rules requirements.~~

~~(B) The Board may reinstate a program whose approval has been denied or withdrawn when the Board is satisfied that deficiencies have been remedied and the requirements have been met.~~

* * *

Sec. 8. REPEAL OF BOARD OF NURSING FACULTY REQUIREMENTS IN RULE

The rules of the Board of Nursing governing the faculty of bachelor and associate degree programs and the faculty of practical nursing programs, set forth in Administrative Rules of the Board of Nursing, CVR 03-030-170, §§ 4.23 (faculty, bachelor and associate degree programs) and 4.24 (faculty, practical nursing programs), are repealed.

* * * Optometry * * *

Sec. 9. 26 V.S.A. chapter 30 is amended to read:

CHAPTER 30. OPTOMETRY

* * *

Subchapter 3. Examinations and Licenses

* * *

§ 1718. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

- | | |
|----------------------|-------------------------------------|
| (1) Application | \$225.00 |
| (2) Biennial renewal | \$425.00 <u>\$350.00</u> |

* * *

Subchapter 6. Therapeutic Pharmaceutical Agents

§ 1728. USE OF THERAPEUTIC PHARMACEUTICAL AGENTS

* * *

* * * Osteopathy * * *

Sec. 10. 26 V.S.A. § 1794 is amended to read:

§ 1794. FEES

(a) Applicants and persons regulated under this chapter shall pay the following fees:

- | | |
|-------------------------------|-------------------------------------|
| (1) Application | |
| (A) Licensure | \$500.00 |
| (B) Limited temporary license | \$ 50.00 |
| (2) Biennial license renewal | \$350.00 <u>\$300.00</u> |

* * *

* * * Pharmacy * * *

Sec. 11. 26 V.S.A. chapter 36 is amended to read:

CHAPTER 36. PHARMACY

Subchapter 1. General Provisions

* * *

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(15)(A) "Practice of pharmacy" means:

* * *

(vii) ~~optimizing drug therapy through~~ the practice of clinical pharmacy; and

* * *

(B) “Practice of clinical pharmacy” or “clinical pharmacy” means:

(i) the health science discipline in which, in conjunction with the patient’s other practitioners, a pharmacist provides patient care to optimize medication therapy and to promote disease prevention and the patient’s health and wellness;

(ii) providing patient care services within the pharmacist’s authorized scope of practice, including medication therapy management, comprehensive medication review, and postdiagnostic disease state management services; ~~or~~

(iii) practicing pharmacy pursuant to a collaborative practice agreement; or

(iv) prescribing as provided under section 2023 of this subchapter.

* * *

(21) “Self-administered hormonal contraceptive” means a contraceptive medication or device approved by the U.S. Food and Drug Administration that prevents pregnancy by using hormones to regulate or prevent ovulation and that uses an oral, transdermal, or vaginal route of administration.

* * *

§ 2023. CLINICAL PHARMACY; PRESCRIBING

(a) In accordance applicable with rules adopted by the Board, a pharmacist may engage in the practice of clinical pharmacy, including prescribing as set forth in subsection (b) of this section, provided that a pharmacist shall not:

(1) prescribe a regulated drug as defined in 18 V.S.A. § 4201;

(2) prescribe a biological product as defined in 18 V.S.A. § 4601, other than a vaccine or insulin medication; or

(3) initiate antibiotic therapy, except pursuant to a collaborative practice agreement.

(b) A pharmacist may prescribe in the following contexts:

(1) Collaborative practice agreement. A pharmacist may prescribe, for the patient or patients of a prescribing practitioner licensed pursuant to this title, within the scope of a written collaborative practice agreement with that primary prescriber.

(A) The collaborative practice agreement shall require the pharmacist and collaborating practitioner to contemporaneously notify each other of any change in the patient's pharmacotherapy or known medical status.

(B) Under a collaborative practice agreement, a pharmacist may select or modify antibiotic therapy for a diagnosed condition under the direction of the collaborating practitioner.

(2) State protocol.

(A) A pharmacist may prescribe in a manner consistent with valid State protocols that are approved by the Commissioner of Health after consultation with the Director of Professional Regulation and the Board and the ability for public comment:

(i) opioid antagonists;

(ii) epinephrine auto-injectors;

(iii) tobacco cessation products;

(iv) tuberculin purified protein derivative products;

(v) self-administered hormonal contraceptives;

(vi) dietary fluoride supplements;

(vii) influenza vaccines; and

(viii) emergency prescribing of albuterol or glucagon while contemporaneously contacting emergency services.

(B)(i) State protocols shall be valid if signed by the Commissioner of Health and the Director of Professional Regulation, and the Board of Pharmacy shall feature the active protocol conspicuously on its website.

(ii) The Commissioner of Health may invalidate a protocol if the Commissioner finds that the protocol's continued operation would pose an undue risk to the public health, safety, or welfare and signs a declaration to that effect. Upon such a declaration, the Director shall remove the invalidated protocol from the Board website and shall cause electronic notice of the protocol's discontinuation to be transmitted to all Vermont drug outlets.

(3) Accessory devices. A pharmacist may prescribe accessory-type devices, such as spacers, needles, and diabetic testing supplies, where clinically indicated in the judgment of the pharmacist.

(4) Prescriber-authorized substitution. A prescribing practitioner licensed pursuant to this title may authorize a pharmacist to substitute a drug with another drug in the same therapeutic class that would, in the opinion of

the pharmacist, have substantially equivalent therapeutic effect even though the substitute drug is not a therapeutic equivalent drug, provided:

(A) the prescriber has clearly indicated that drug product substitution is permissible by indicating “therapeutic substitution allowed” or similar designation;

(B) the drug product substitution is intended to ensure formulary compliance with the patient’s health insurance plan or otherwise to minimize cost to the patient;

(C) the patient’s voluntary, informed consent is obtained in writing; and

(D) the pharmacist or designee notifies the prescriber which drug was dispensed as a substitute within five days of dispensing.

(5) Over-the-counter availability. A pharmacist may prescribe over-the-counter drugs where appropriate to reduce costs to the patient, such as by drawing from a health savings account or flexible spending account.

(6) Short-term extensions.

(A) A pharmacist may extend a previous prescription in the absence of a collaborative practice agreement or a State protocol so long as the pharmacist provides only sufficient quantity to the patient until the patient is able to consult with another practitioner, not to exceed a five-day supply or the smallest available unit, and takes all reasonable measures to notify the patient’s primary care provider of record or the appropriate original prescriber, if the original prescriber is different from the primary care provider of record.

(B) A short-term extension shall be provided on a one-time basis.

(c) Board rules shall:

(1) specify the required elements of a collaborative practice agreement;

(2) prohibit conflicts of interest and inappropriate commercial incentives related to prescribing, such as reimbursement based on brands or numbers of prescriptions filled, renewing prescriptions without request by a patient, steering patients to particular brands or selections of products based on any commercial relationships, or acceptance of gifts offered or provided by manufactures in violation of 18 V.S.A. § 4631a;

(3) define appropriate bounds of short-term extension prescribing; and

(4) establish minimum standards for patient privacy in clinical consultation.

* * *

~~Subchapter 5. Registration of Facilities~~ Drug Outlets

§ 2061. REGISTRATION AND LICENSURE

* * *

(g) Any nonpharmacist owner of a retail or institutional drug outlet may be denied the right to own another pharmacy for a period to be determined by the Board, if he or she is found to be in violation of any of the grounds listed under ~~section 2051 of this title~~ 3 V.S.A. § 129a.

* * *

§ 2063. NOTIFICATIONS

(a) All licensed drug outlets shall report to the Board of Pharmacy within 48 hours the occurrence of any of the following changes:

* * *

(3) any and all other matters and occurrences as the Board may properly require by ~~rules and regulations~~ rule.

* * *

~~Subchapter 6. Wholesale Distributors and Manufacturers~~

* * *

Sec. 12. PROTOCOL IMPLEMENTATION; TARGET DATES;
RULEMAKING

(a) On or before January 1, 2021, the Commissioner of Health shall:

(1) approve State protocols respecting opioid antagonists, self-administered hormonal contraceptives, and influenza vaccines in accordance with the procedure for establishing valid protocols set forth in 26 V.S.A. § 2023(b)(2) in Sec. 11 of this act; or

(2) provide affirmative notice to the Senate Committees on Government Operations and on Health and Welfare and the House Committees on Government Operations and on Health Care that the Commissioner was unable to approve those protocols by that date.

(b) On or before January 1, 2021, the Board of Pharmacy shall adopt rules consistent with the provisions of 26 V.S.A. § 2023(c) as set forth in Sec. 11 of this act. If the Board is unable to adopt rules by that date, the Board shall adopt an emergency rule until such time as it completes the rulemaking process.

* * * Physical Therapists * * *

Sec. 13. 26 V.S.A. § 2103 is amended to read:

§ 2103. EXAMINATION

* * *

(e) An applicant for licensure who does not pass the examination on the first attempt may retake the examination one additional time without reapplication for licensure within six months of the first ~~or~~ examination. Before the Director may approve an applicant for subsequent testing beyond two attempts, an applicant shall reapply for licensure and shall submit evidence satisfactory to the Director of having successfully completed additional clinical training or course work, or both, as determined by the Director.

* * *

* * * Veterinary Medicine * * *

Sec. 14. 26 V.S.A. § 2414 is amended to read:

§ 2414. FEES

Applicants and persons regulated under this chapter shall pay the following fees:

- | | |
|----------------------|--------------------------------------|
| (1) Application | \$ 100.00 |
| (2) Biennial renewal | \$ 200.00 <u>\$175.00</u> |

* * * Landscape Architects * * *

Sec. 15. 26 V.S.A. § 2613 is amended to read:

§ 2613. EXEMPTIONS

(a) This chapter shall not affect or prevent:

* * *

(7) the design of irrigation systems; ~~and~~ or

(8) officers or employees of the federal government from working in connection with their employment.

* * *

* * * Review of Regulatory Laws * * *

Sec. 16. 26 V.S.A. chapter 57 is amended to read:

CHAPTER 57. REVIEW OF REGULATORY LAWS

* * *

§ 3105. CRITERIA AND STANDARDS

(a) A profession or occupation shall be regulated by the State only when:

(1) it can be demonstrated that the unregulated practice of the profession or occupation can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is recognizable and not remote or speculative;

(2) the public can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(3) the public cannot be effectively protected by other means.

* * *

(d) Prior to review under this chapter and consideration by the General Assembly of any bill to regulate a profession or occupation and upon the request of the House or Senate Committee on Government Operations, the Office shall make, in writing, a preliminary assessment of whether any particular request for regulation meets the criteria set forth in subsection (a) of this section. The Office shall report its preliminary assessment to the ~~appropriate House or~~ and Senate Committee Committees on Government Operations.

(e) After the review of a proposal to regulate a profession or to amend the scope of a regulated profession, the Office may decline to conduct an analysis and evaluation ~~of the proposed regulation~~ if it finds that:

(1) the proposed regulatory scheme appears to regulate fewer than 250 individuals; ~~and~~

(2) the Office previously conducted an analysis and evaluation of the proposed regulation of the same profession or occupation, and no new information has been submitted that would cause the Office to alter or modify the recommendations made in its earlier report on that proposed regulation; or

(3) a proposal presented by petition would, in the opinion of the Director, call for the unwarranted expenditure of State resources.

* * *

§ 3107. INFORMATION REQUIRED OF APPLICANTS

Prior to review under this chapter and prior to consideration by the General Assembly of any bill that proposes to regulate a profession or occupation, the profession or occupation being reviewed or seeking regulation shall explain each of the following factors, in writing, to the extent requested by the House or Senate Committee on Government Operations:

* * *

§ 3108. PRELIMINARY ASSESSMENT OF SCOPE OF PRACTICE

(a) Office preliminary assessment.

(1) Prior to review under this chapter and consideration by the General Assembly of any bill to materially amend the scope of practice permitted for a regulated profession or occupation, and upon the request of the House or Senate Committee on Government Operations or upon the direct petition from a regulated profession or occupation, the Office shall make, in writing, a preliminary assessment of whether the proposed scope of practice amendment is consistent with the principles and standards set forth in this chapter.

(2) The Office shall report its preliminary assessment to the House and Senate Committees on Government Operations and, where a report pertains to a health care profession, to the House Committee on Health Care and the Senate Committee on Health and Welfare.

(b) Required supporting information. A profession proposing by petition a material amendment of a scope of practice shall explain each of the following factors, in writing, to the extent requested by the Office or the House or Senate Committee on Government Operations, not later than July 1 of the year preceding the next regular session of the General Assembly:

(1) A description of the practices and activities that the profession or occupation would be permitted to engage in if the scope of practice is amended.

(2) Public health, safety, or welfare benefits, including economic benefits that the requestor believes will be achieved if the request is implemented and, if applicable, a description of any harm to public health if the request is implemented.

(3) The impact the amendment of the scope of practice will have on the public's access to occupational services.

(4) A description of the current laws and regulations, both federal and State, pertaining to the profession, including a description of the current education, training, and examination requirements and any relevant

certification requirements applicable to the profession for which the amended scope of practice is being sought.

(5) The extent to which the public can be confident that a practitioner is competent to perform the activities and practices permitted under the amended scope of practice, including a description of the nature and duration of the education and training for performing these activities and practices, if any. The description of the education and training shall include the following information:

(A) whether the educational requirement includes a substantial amount of supervised practical experience;

(B) a description of the courses and professional educational programs, including relevant syllabi and curricula, training professionals to perform the activities and practices being proposed under the expanded scope of practice;

(C) whether educational programs exist in this State;

(D) whether there will be an experience requirement;

(E) whether the experience must be acquired under a registered, certified, or licensed practitioner;

(F) whether there are alternative routes of entry or methods of satisfying the eligibility requirements and qualifications; and

(G) whether all applicants will be required to pass an examination and, if an examination is required, by whom it will be developed and how the costs of development will be met.

(6) A description of how the request relates to the profession's ability to practice to the full extent of the profession's education and training.

(7) For health care professionals, a description of the impact an amendment to the scope of practice will have within the health care system, including:

(A) the anticipated economic impact such an expansion will have for the system, for patients, and for other health care providers; and

(B) identification of any health care professions that can reasonably be anticipated to be directly impacted by the request, the nature of the impact, and efforts made by the requestor to discuss the request with such health care professionals.

(8) A summary of the known scope of practice changes either requested or enacted in the State concerning the profession in the five-year period

preceding the date of the current request.

(9) A summary of regional and national trends, legislation, laws, and regulations concerning licensure of the profession making the request, and a summary of relevant scope of practice provisions enacted in other states.

(10) How the standards of the profession or occupation will be maintained, including whether effective quality assurance standards pertaining to the activities and practices permitted under the proposed expanded scope of practice exist in the profession or occupation, such as legal requirements associated with specific programs that define or enforce standards.

(11) A profile of the practitioners in this State, including a list of associations, organizations, and other groups representing the practitioners and including an estimate of the number of practitioners in each group.

(c) Exemption. In lieu of submitting a scope of practice request as described in subsection (b) of this section, a person proposing an amendment to a scope of practice may submit a request for an exemption. The request for exemption shall be submitted to the Office not later than July 1 of the year preceding the next regular session of the General Assembly and shall include a plain language description of the request. The Office may grant the exemption if:

(1) there exist exigent circumstances that necessitate an immediate response to the request, and the delay imposed by analysis would threaten the public health, safety, or welfare;

(2) there is not substantial dispute concerning the scope of practice request; or

(3) the requested amendment is not material, meaning the amendment would not alter the balance of risks and harms to the public health, safety, or welfare; the regulatory burdens on any other group; or the enforcement authority or character of the regulatory program.

(d) Impacted persons.

(1) Any person acting on behalf of a profession that may be directly impacted by a scope of practice request submitted pursuant to this section may submit to the Office a written statement identifying the nature of the impact not later than October 1 of the year preceding the next regular session of the General Assembly. That person shall indicate the nature of the impact by taking into consideration the criteria set forth in subsection (b) of this section and shall provide a copy of the written impact statement to the requestor.

(2) Not later than October 15 of that year, the requestor shall submit a

written response to the Office and the person that provided the written impact statement. The requestor's written response shall include a description of areas of agreement and disagreement between the respective professions.

* * * Private Investigative and Security Services * * *

Sec. 17. 26 V.S.A. chapter 59 is amended to read:

CHAPTER 59. PRIVATE INVESTIGATIVE AND SECURITY SERVICES

Subchapter 1. General Provisions

§ 3151. DEFINITIONS

As used in this chapter:

(1)(A) “Director” means the Director of the Office.

~~(B) “Board” means the State Board of Private Investigative and Security Services~~ “Office” means the Office of Professional Regulation.

* * *

~~Subchapter 2. State Board of Private Investigative and Security Services~~
Administration

§ 3161. STATE BOARD REGULATION OF PRIVATE INVESTIGATIVE AND SECURITY SERVICES; DIRECTOR; ADVISOR APPOINTEES

~~The State Board of Private Investigative and Security Services is created. The Board shall consist of five members appointed by the Governor: one shall be a provider of private investigative services; one shall be a provider of private security services; two shall be members of the public with no financial interest in either service other than as a consumer or potential consumer. The remaining member shall be a provider of private investigative services or a provider of private security services, or a provider of both types of services. Board members shall be appointed by the Governor pursuant to 3 V.S.A. §§ 129b and 2004.~~

(a)(1) The Director shall administer the provisions of this chapter.

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

(b)(1) The Secretary of State shall appoint five persons of suitable qualifications in accordance with this section to advise the Director in matters concerning private investigative and security services.

(A) Two advisors shall be members of the public with no financial interest, either personally or through a spouse, in private investigative services or security services.

(B) One advisor shall be a provider of private investigative services.

(C) One advisor shall be a provider of private security services.

(D) The remaining member shall be a provider of private investigative services or a provider of private security services, or a provider of both types of services.

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

§ 3162. ~~BOARD RULEMAKING AUTHORITY~~ DIRECTOR; POWERS AND DUTIES

The ~~Board~~ Director shall adopt rules necessary for the ~~performance of its duties~~ effective administration of this chapter, including rules prescribing minimum standards and qualifications for:

* * *

Subchapter 3. Licensing

§ 3171. LICENSING

* * *

(c) Individual registrations may be transferred upon approval by the ~~Board~~ Director.

§ 3172. LICENSES

The ~~Board~~ Director shall issue agency licenses for private investigative services, private security guard services, or combination guard agency licenses to applicants that submit all of the following:

* * *

§ 3173. PRIVATE INVESTIGATOR LICENSES

~~(a) A person shall not engage in the business of private investigation or provide private investigator services in this State without first obtaining a license.~~ The ~~Board~~ Director shall issue a license to a private investigator after obtaining and approving all of the following:

(1) an application filed in proper form evidence that the applicant has attained the age of majority;

~~(2) the application fee evidence that the applicant has successfully passed any examination required by rule; and~~

~~(3) evidence that the applicant has attained the age of majority; and~~

~~(4) evidence that the applicant has successfully passed any examination required by rule the application fee.~~

(b) The Board Director may make inquiries if he or she deems necessary into the character, integrity, and reputation of the applicant.

(c) The Board Director shall require that a person ~~licensed~~ seeking licensure to practice independently as a private investigator has had appropriate experience in investigative work, for a period of not less than two years, as determined by the Board Director. Such experience may include having been regularly employed as a private detective investigator licensed in another state or as an investigator for a private detective investigative agency licensed in this or another state or having been a sworn member of a federal, state, or municipal law enforcement agency.

* * *

§ 3174. SECURITY GUARD LICENSES

~~(a) A person shall not engage in the business of a security guard or provide guard services in this State without first obtaining a license. The Board Director shall issue a license to a security guard after obtaining and approving all of the following:~~

~~(1) an application filed in proper form evidence that the applicant has attained the age of majority;~~

~~(2) the application fee evidence that the applicant has successfully passed any examination required by rule; and~~

~~(3) evidence that the applicant has attained the age of majority;~~

~~(4) evidence that the applicant has successfully passed any examination required by rule the application fee.~~

(b) The Board Director may make inquiries if he or she deems necessary into the character, integrity, and reputation of the applicant.

(c) The Board Director shall require that a person ~~licensed~~ seeking licensure to practice independently as a security guard has had experience satisfactory to the Board Director in security work for a period of not less than two years. Such experience may include having been licensed as a security guard in another state or regularly employed as a security guard for a security

agency licensed in this or another state or having been a sworn member of a federal, state, or municipal law enforcement agency.

* * *

§ 3175. EXAMINATIONS

The ~~Board~~ Director shall prepare, or have prepared, and administer, separate examinations for private investigators and private security services. Each examination shall be designed to test the competency of the applicant with respect to the lawful and safe provision of each respective service to the public.

§ 3175a. FIREARMS INSTRUCTOR LICENSURE; PROGRAM OF INSTRUCTION

(a) The ~~Board~~ Director shall license firearms training course instructors of private investigators and security guards licensed under this chapter and shall adopt rules governing the licensure of instructors and the approval of firearms and guard dog training programs.

(b) The ~~Board~~ Director shall not issue a license as a firearms training program instructor without first obtaining and approving all of the following:

(1) ~~the application filed in the proper form~~ evidence that the applicant has attained the age of majority;

(2) ~~the application fee established in subdivision 3178a(a)(5)(A) of this title~~ a copy of the applicant's training program;

(3) ~~evidence that the applicant has obtained the age of majority~~ proof of certification as an instructor from an instructor's course approved by the Director;

(4) ~~a copy of the applicant's training program~~ federal background check; and

(5) ~~proof of certification as an instructor from an instructor's course approved by the Board;~~

(6) ~~a federal background check~~ the application fee.

(c) ~~Instructors licensed under this section are subject to the same renewal requirements as others licensed under this chapter, and prior to renewal are required to show proof of current instructor licensure and pay the renewal fee established in subdivision 3178a(a)(5)(B) of this title. [Repealed.]~~

§ 3175b. GUARD DOG TRAINING INSTRUCTOR LICENSE

(a) An applicant for a license to provide guard dog services shall demonstrate to the ~~Board~~ Director competence in the handling of guard dogs in a guard dog training program approved by the ~~Board~~ Director and taught by an instructor currently licensed under this section.

(b) The ~~Board~~ Director shall not issue a license as a guard dog training program instructor without first obtaining and approving all of the following:

(1) ~~the application filed in the proper form~~ evidence that the applicant has attained the age of majority;

(2) ~~the application fee set forth in section 3178 of this title~~ a copy of the applicant's training program;

(3) ~~evidence that the applicant has obtained the age of majority~~ proof of certification as an instructor from an instructor's course approved by the Director;

(4) ~~a copy of the applicant's training program~~ federal background check; and

(5) ~~proof of certification as an instructor from an instructor's course approved by the Board;~~

(6) ~~a federal background check~~ the application fee.

§ 3175c. FIREARMS TRAINING AND CERTIFICATION

(a) A licensee seeking a firearms certification shall ~~meet the following requirements:~~

(1) ~~An applicant for a private investigator or security guard license to provide armed services shall~~ demonstrate to the ~~Board~~ Director competence in the safe use of firearms by successfully completing a firearms training program approved by the ~~Board~~ Director;

(2) ~~An applicant shall~~ pay the required fee;

(3) ~~An applicant shall obtain~~ provide the Director with evidence that the applicant has attained the age of majority; and

(4) ~~An applicant shall~~ receive a satisfactory federal background check.

(b) ~~No~~ A licensee ~~may~~ shall not possess a firearm while performing professional services unless certified and in good standing under this section.

§ 3176. EMPLOYEES OF AGENCIES

* * *

(b) An agency shall register all agency investigative and security employees with the Board Office. Employees shall carry identification ~~in a form satisfactory to the Board~~ indicating the licensee by whom the person is employed.

(c) An employee of a licensee shall not function as an armed private investigator, armed guard, armed courier, or handler of guard dogs unless the employee ~~demonstrates to the Board competency in a manner deemed appropriate by the Board~~ holds an active specialty designation authorizing the use of firearms or guard dogs, as applicable.

(d) The Board Director may make inquiries it deems necessary into the character, integrity, and reputation of the employee.

(e) As a prerequisite to registration, all investigative and security employees shall take and successfully complete a training program approved by the Board Director.

(f) A licensed agency or other entity conducting a training program approved by the Board Director pursuant to this section shall maintain training records for not less than five years. The retained records shall include, at a minimum, records of the courses taught, subjects covered, and persons who have received instruction. Training records shall be made available to the ~~Office of Professional Regulation~~ upon request. A licensed agency shall maintain its training records at its regular place of business within the State of Vermont.

§ 3176a. TRANSITORY PRACTICE

The ~~Director of the Office of Professional Regulation~~, under rules adopted by the Board Director, may grant a transitory permit to practice as a private investigator to a person who is not a resident of Vermont and has no established place of business in this State, if that person is legally qualified by license to practice as a private investigator in any state or country that regulates such practice. Practice under a transitory permit shall not exceed 30 days in any calendar year.

* * *

§ 3178a. FEES

~~(a) Applicants and persons regulated under this chapter shall pay the following fees:~~

~~(1) Application for agency license:~~

~~(A) Investigative agency _____ \$ 340.00~~

- ~~(B) Security agency _____ \$ 340.00~~
- ~~(C) Investigative/security agency _____ \$ 400.00~~
- ~~(D) Sole proprietor _____ \$ 250.00~~
- ~~(2) Application for individual license:~~
 - ~~(A) Unarmed licensee _____ \$ 150.00~~
 - ~~(B) Armed licensee _____ \$ 200.00~~
- ~~(3) Application for employee registration:~~
 - ~~(A) Unarmed registrants _____ \$ 60.00~~
 - ~~(B) Armed registrants _____ \$ 120.00~~
 - ~~(C) Transitory permits _____ \$ 60.00~~
- ~~(4) Biennial renewal:~~
 - ~~(A) Investigative agency _____ \$ 300.00~~
 - ~~(B) Security agency _____ \$ 300.00~~
 - ~~(C) Investigative/security agency _____ \$ 300.00~~
 - ~~(D) Unarmed licensee _____ \$ 120.00~~
 - ~~(E) Armed licensee _____ \$ 180.00~~
 - ~~(F) Unarmed registrants (agency employees) _____ \$ 80.00~~
 - ~~(G) Armed registrants (agency employees) _____ \$ 130.00~~
 - ~~(H) Sole proprietor _____ \$ 250.00~~
- ~~(5) Instructor licensure:~~
 - ~~(A) Application for licensure _____ \$ 120.00~~
 - ~~(B) Biennial renewal _____ \$ 180.00~~

~~(b) A sole proprietor of an investigative agency or security agency shall only pay the sole proprietor fees pursuant to this section, provided the agency has no other registered investigative or security employees. [Repealed.]~~

~~* * *~~

Subchapter 4. Unprofessional Conduct and Discipline

§ 3181. UNPROFESSIONAL CONDUCT

(a) It shall be unprofessional conduct for a licensee, registrant, or applicant to engage in conduct prohibited by this section, or by 3 V.S.A. § 129a.

(b) Unprofessional conduct means any of the following:

* * *

(13) failing to provide information requested by the ~~Board~~ Director;

* * *

(15) failing to notify the ~~Board~~ Director of a change in ownership, partners, officers, or qualifying agent;

* * *

* * * Real Estate Appraisers * * *

Sec. 18. 26 V.S.A. chapter 69 is amended to read:

CHAPTER 69. REAL ESTATE APPRAISERS

* * *

Subchapter 3. Licenses, Certifications, and Registrations

§ 3316. LICENSING AND REGISTRATION FEES

~~In addition to the fees otherwise authorized by law, the Director may charge the fees for professions Applicants and persons regulated by the Director as under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).~~

* * *

§ 3321. RENEWALS

(a) ~~A~~ Except for a license issued to an appraisal management company, a licensed issued under this chapter shall be renewed biennially upon payment of the required fee and upon satisfactory completion of the minimum continuing education requirements established by AQB during the immediately preceding two-year period. An appraisal management company shall renew its license annually in compliance with State and federal regulations.

(b) If an individual or an appraisal management company fails to renew in a timely manner, he ~~or~~ she, or it may renew the license within 30 days of the renewal date by satisfying all requirements set forth in law, including, as applicable, those requirements of AQB for reactivation and payment of an additional late renewal penalty.

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

satisfied all the requirements set forth in law, including, as applicable, those requirements of AQB for reactivation.

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

* * *

(e) ~~An appraisal management company shall renew its registration biennially. [Repealed.]~~

* * *

* * * Dieticians * * *

Sec. 19. 26 V.S.A. § 3387 is amended to read:

§ 3387. APPLICATION

A person who desires to be certified as a dietitian shall apply to the Director in writing, on a form furnished by the Director, accompanied by payment of a the required fee required pursuant to section 3388 of this title and evidence that the applicant meets the requirements set forth in section 3385 of this title chapter.

* * * Naturopathic Physicians * * *

Sec. 20. 26 V.S.A. § 4126 is amended to read:

§ 4126. ADVISOR APPOINTEES

* * *

~~(d) Notwithstanding 3 V.S.A. § 129(j), when an advisor appointee is unable to serve as an administrative law officer by reason of disqualification or necessary absence, the Secretary of State may appoint a suitable person to serve as the administrative law officer in lieu of the advisor appointee. [Repealed.]~~

* * * Midwives * * *

Sec. 21. 26 V.S.A. chapter 85 is amended to read:

CHAPTER 85. MIDWIVES

§ 4181. DEFINITIONS

The definitions contained in this section shall apply throughout this chapter unless the context clearly requires otherwise:

* * *

(6) ~~“VMA” means the Vermont Midwives Alliance.~~

* * *

§ 4185. DIRECTOR; DUTIES

* * *

(b)(1) The Director shall adopt general rules necessary to perform his or her duties under this chapter, maintain and make available a list of approved programs for continuing education, and, by January 1, 2001, in consultation with the Commissioner of Health, the Vermont Medical Society, and the Vermont chapter of the American College of Nurse-Midwives, adopt specific rules defining the scope and practice standards, including risk-assessment criteria, based at a minimum, on the practice standards of the ~~Vermont Midwives Alliance (VMA)~~ and the Midwives Alliance of North America (MANA), and defining a protocol and formulary for drug use by licensed midwives, including anti-hemorrhagic drugs and oxygen.

(2)(A) Once initially established by rule, the formulary for medication use by licensed midwives, including anti-hemorrhagic agents and oxygen, shall be updated by the Director as necessary, subject to the approval of the Commissioner of Health and notwithstanding the provisions of 3 V.S.A. chapter 25.

(B) The Director shall update the protocol and formulary, in consultation with the Commissioner of Health or ~~his or her~~ designee, the Vermont Midwives Association, the Vermont Medical Society, and the Vermont chapter of the American College of Nurse-Midwives to ensure licensed midwives have available those medications deemed necessary to maintain best practice standards and deemed necessary for licensed midwives to provide prenatal and postpartum care consistent with accepted and prevailing standards of care for mothers and their babies.

* * *

Sec. 22. MIDWIVES, DEPARTMENT OF HEALTH; REPEAL OF DATA
SUBMISSION AND DATA ACCESS REQUIREMENTS

2011 Acts and Resolves No. 35, Secs. 7 (requiring midwives and APRN certified nurse midwives to submit data on home births) and 8(a) (requiring the Department of Health to access midwife data) are repealed.

* * * Electrologists * * *

Sec. 23. 26 V.S.A. § 4404 is amended to read:

§ 4404. DIRECTOR; DUTIES

* * *

(b) The Director may inspect electrology offices used for the practice of electrology. ~~No~~ A fee shall not be charged for ~~initial~~ inspections under this subsection; ~~however, if the Director determines that it is necessary to inspect the same premises under the same ownership more than once in any two-year period, a reinspection fee may be charged, as provided in section 4410 of this title. The Director may waive all or a part of the reinspection fee in accordance with criteria established by rule.~~

* * *

* * * Respiratory Care * * *

Sec. 24. 26 V.S.A. § 4712 is amended to read:

§ 4712. EXEMPTIONS FROM LICENSURE

(a) ~~No~~ A person shall not practice respiratory care or represent himself or herself to be a respiratory care practitioner unless he or she is licensed under this chapter, except that this chapter shall not prohibit:

(1) A person matriculated in an education program approved by the ~~board~~ Director who is pursuing a degree in respiratory care or respiratory therapy from satisfying supervised clinical education requirements related to the person's respiratory care education while under direct supervision of a respiratory care practitioner or physician.

* * *

* * * Motor Vehicle Racing * * *

Sec. 25. 26 V.S.A. § 4801 is amended to read:

§ 4801. DEFINITIONS

As used in this chapter:

* * *

(8) "Regulation," unless otherwise specified, means a regulation or rule or amendment, revision, or repeal of a regulation or rule adopted by the ~~commission~~ Director.

* * *

* * * Pollution Abatement Facility Operators * * *

Sec. 26. 26 V.S.A. § 5121 is amended to read:

§ 5121. ELIGIBILITY FOR LICENSURE

(a) To be eligible for licensure as a pollution abatement facility operator, an applicant shall be at least 18 years of age; be able to read and write the English language; ~~hold a high school diploma, General Equivalency Diploma (GED), or equivalent;~~ and demonstrate such specific education, training, experience, and examination performance as the Director may by rule require to hold the class of license sought.

* * *

* * * Notaries Public * * *

Sec. 27. 24 V.S.A. § 183 is amended to read:

~~§ 183. CERTIFICATE OF APPOINTMENT OF NOTARY PUBLIC~~

~~Immediately after the appointment of a notary public, the county clerk shall send to the Secretary of State a certificate of such appointment, on blanks furnished by the Secretary, containing the name, signature, and legal residence of the appointee, and the term of office of each notary public. The Secretary shall cause such certificates to be bound in suitable volumes and to be indexed. Upon request, the Secretary may certify the appointment, qualification, and signature of a notary public on tender of his or her legal fees. [Repealed.]~~

* * * Massage Therapists, Bodyworkers, and Touch Professionals * * *

Sec. 28. 3 V.S.A. § 122 is amended to read:

§ 122. OFFICE OF PROFESSIONAL REGULATION

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

* * *

(49) Massage Therapists, Bodyworkers, and Touch Professionals

Sec. 29. 26 V.S.A. chapter 105 is added to read:

CHAPTER 105. MASSAGE THERAPISTS, BODYWORKERS, AND TOUCH PROFESSIONALS

Subchapter 1. General Provisions

§ 5401. DEFINITIONS

As used in this chapter:

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

(2)(A) “Establishment” means any place of business that:

(i) offers the practice of massage or the practice of bodywork or where the practice of massage or the practice of bodywork is conducted on the premises of the business; or

(ii) represents itself to the public by any title or description of services incorporating the words “touch professional,” “bodywork,” “massage,” “massage therapy,” “massage therapist,” “massage practitioner,” “massagist,” “masseur,” “masseuse,” “energy work,” or other words identified by the Director in rules.

(B) A “place of business” includes any office, clinic, facility, salon, spa, or other location not otherwise exempted under section 5404 of this chapter where a person or persons engage in the practice of massage or the practice of bodywork.

(3) “Practice of massage” and “practice of bodywork” mean offering or engaging in massage or bodywork in exchange for consideration.

(4)(A) “Massage” and “Bodywork” mean systems of structured touch that are:

(i)(I) applied to the superficial, soft or deep tissue, muscle, or connective tissue of another person by manual means, including friction, gliding, rocking, tapping, kneading, and nonspecific stretching; or

(II) designed to affect the energy fields of the body for the purpose of promoting and maintaining health and well-being; and

(ii) provided to clients in a manner in which the clients remove street clothing and have a reasonable expectation of privacy.

(B) Massage and bodywork may include the use of therapies such as heliotherapy or hydrotherapy; the use of moist, hot, and cold external applications; and the use of oils or other lubricants.

(C) Neither massage nor bodywork include the diagnosis of illness, disease, impairment, or disability.

(5) “Massage therapist, bodyworker, or touch professional” means a person who holds a registration from the Office to practice massage or practice bodywork or both.

§ 5402. PROHIBITIONS

(a) An individual shall not engage in or offer the practice of massage or the practice of bodywork unless the individual is registered with the Office.

(b) It shall be a violation of this chapter for any individual to engage in the practice of massage or the practice of bodywork, or to offer to engage in the practice of massage or the practice of bodywork, if the individual's registration has been suspended or revoked.

(c) An individual shall not use in connection with the individual's name any letters, words, titles, or insignia indicating or implying that the individual is offering or engaging in the practice of massage or the practice of bodywork, including the terms "massage therapist," "bodyworker," or "touch professional," unless the individual holds a registration in accordance with this chapter.

§ 5403. UNAUTHORIZED PRACTICE

Any individual who engages in the practice of massage or the practice of bodywork without a registration from the Office shall be subject to the penalties provided in 3 V.S.A. § 127 (unauthorized practice).

§ 5404. EXEMPTIONS

(a) The following shall not require a registration under this chapter:

(1) the practice of massage or the practice of bodywork by a student as part of a professional massage or bodywork education program;

(2) the practice of massage or the practice of bodywork by an apprentice as part of a massage or bodywork apprenticeship; or

(3) the practice of massage or the practice of bodywork provided to clients in a manner in which the clients do not remove street clothing or do not have a reasonable expectation of privacy.

(b) The provisions of this chapter requiring individuals to be registered shall not apply to individuals who engage in or offer the practice of massage or the practice of bodywork in the course of their customary duties as physicians, podiatrists, physician assistants, nurses, osteopaths, acupuncturists, athletic trainers, barbers, cosmetologists, estheticians, electrologists, chiropractors, midwives, naturopathic physicians, occupational therapists, physical therapists, or respiratory care practitioners.

(c) Nothing in this chapter shall prohibit a massage therapist, bodyworker, or touch professional from engaging in or offering the practice of massage or the practice of bodywork at a location that is not an establishment, so long as

prior to engaging in that practice at that location, the registrant and his or her client agree that the location is acceptable.

Subchapter 2. Administration

§ 5411. DUTIES OF THE DIRECTOR

(a) Generally. The Director shall:

(1) provide general information to applicants for registration as a massage therapist, bodyworker, or touch professional;

(2) receive applications for registration and provide registrations to applicants qualified under this chapter;

(3) administer fees as established by law;

(4) refer all disciplinary matters to an administrative law officer;

(5) explain appeal procedures to applicants and registrants; and

(6) explain complaint procedures to the public.

(b) Rules.

(1) The Director shall adopt rules requiring a massage therapist, bodyworker, or touch professional to disclose to each new client before the first treatment the following information:

(A) the professional qualifications and experience of the registrant;

(B) actions that constitute unprofessional conduct;

(C) the method for filing a complaint against a registrant; and

(D) the method for making a consumer inquiry with the Office.

(2) The Director shall adopt rules regarding the display of:

(A) the registrations of employed or contracted massage therapists, bodyworkers, or touch professionals at an establishment; and

(B) information regarding unprofessional conduct and filing complaints with the Office.

(3) The rules described in this subsection (b) shall include provisions relating to the manner in which the information disclosed shall be distributed or displayed, and a requirement that a massage therapist, bodyworker, or touch professional and his or her client sign an acknowledgement that the information was disclosed.

(4) The Director may adopt other rules as necessary to perform his or her duties under this chapter.

§ 5412. ADVISOR APPOINTEES

(a) The Secretary of State shall appoint three advisors of suitable qualifications, as described in this section, to advise the Director on matters relating to the practice of massage and the practice of bodywork.

(b) The Secretary shall appoint the advisors to serve, at the Secretary's pleasure, for five-year staggered terms. To stagger the advisors' terms, the Secretary may initially appoint two of the advisors for less than a five-year term.

(c) Two of the three advisors shall be massage therapists, bodyworkers, or touch professionals registered under this chapter who have been actively engaged in the practice of massage or the practice of bodywork, or both for the three-year period immediately preceding appointment. These two advisors shall maintain their registrations in this State and be actively engaged in the practice of massage or the practice of bodywork, or both during their incumbency.

(d) The Director shall seek the advice of the advisors in carrying out the provisions of this chapter.

Subchapter 3. Registrations

§ 5421. APPLICATION

A person who desires to be registered under this chapter shall apply for a registration in the manner specified by the Director, accompanied by payment of the required fee.

§ 5422. REGISTRATION BY ENDORSEMENT

The Director may issue a registration to an individual under this chapter if the individual holds a license, registration, certification, or other authorization to practice massage therapy or bodywork from a U.S. or Canadian jurisdiction.

§ 5423. ESTABLISHMENTS; DESIGNEE AND INSPECTION

(a) An establishment shall designate a massage therapist, bodyworker, or touch professional to be responsible for ensuring the establishment complies with the requirements of this chapter and the rules adopted by the Director.

(b) A person authorized by the Director may enter any establishment for the purpose of inspection when a complaint has been filed with the Office regarding the practice of massage or the practice of bodywork at that establishment. A fee shall not be charged for any inspection under this subsection.

§ 5424. REGISTRATION RENEWAL

(a) A registration under this chapter shall be renewed every two years by submission of a new, completed application and shall be accompanied by payment of the required fee.

(b) A registration that has lapsed shall be renewed upon payment of the biennial renewal fee and the late renewal penalty.

§ 5426. FEES

Applicants and persons regulated under this chapter shall pay those fees set forth in 3 V.S.A. § 125(b).

§ 5427. DISPLAY OF REGISTRATION

A massage therapist, bodyworker, or touch professional shall conspicuously display his or her registration in any establishment where the registrant is engaged in the practice of massage or the practice of bodywork.

§ 5428. UNPROFESSIONAL CONDUCT

Unprofessional conduct means the conduct set forth in 3 V.S.A. § 129a and the following:

- (1) engaging in activities in violation of 13 V.S.A. § 2605 (voyeurism);
- (2) engaging in a sexual act with a client;
- (3) conviction of a crime committed while engaged in the practice of massage or the practice of bodywork;
- (4) performing massage or bodywork that the massage therapist, bodyworker, or touch professional knows or has reason to know has not been authorized by a client or the client's legal representative; and
- (5) engaging in conduct of a character likely to deceive, defraud, or harm the public.

Sec. 30. TRANSITIONAL PROVISION; ADVISOR APPOINTEES

Notwithstanding the provisions of 26 V.S.A. § 5412 in Sec. 29 of this act that require a massage therapist, bodyworker, or touch professional advisor appointee to be registered under 26 V.S.A. chapter 105, the Secretary of State may initially appoint advisor appointees who are not registered under this chapter because the law has yet to take effect, provided those advisor appointees otherwise meet the requirements of 26 V.S.A. § 5412.

Sec. 31. CREATION OF POSITIONS WITHIN THE OFFICE OF PROFESSIONAL REGULATION; LICENSING.

(a) There are created within the Secretary of State's Office of Professional Regulation one new position in the licensing division and one new position in the enforcement division.

(b) Any funding necessary to support the positions created in subsection (a) of this section and the implementation of 26 V.S.A. chapter 105 set forth in Sec. 29 of this act shall be derived from the Office's Professional Regulatory Fee Fund and not from the General Fund.

Sec. 32. OFFICE OF PROFESSIONAL REGULATION; REGULATORY REVIEW

On or before November 1, 2023, the Office of Professional Regulation shall assess the manner in which the public is protected by the registration of massage therapists, bodyworkers, and touch professionals as set forth in this act and submit any recommended amendments to the law to the Senate and House Committees on Government Operations.

* * * Climate Change and State Energy Goals * * *

Sec. 33. SPECIFIED REGULATORY ENTITIES; OFFICE OF PROFESSIONAL REGULATION; REPORT ON CURRENT AND RECOMMENDED CONTINUING EDUCATION; CLIMATE CHANGE AND STATE ENERGY GOALS

(a)(1) On or before November 15, 2020, the regulatory entity for each of the following professions shall submit to the Director of the Office of Professional Regulation the information described in subdivision (2) of this subsection:

(A) architects licensed under 26 V.S.A. chapter 3;

(B) landscape architects licensed under 26 V.S.A. chapter 46;

(C) pollution abatement facility operators licensed under 26 V.S.A. chapter 99;

(D) potable water supply and wastewater system designers licensed under 26 V.S.A. chapter 97;

(E) professional engineers licensed under 26 V.S.A. chapter 20;

(F) property inspectors licensed under 26 V.S.A. chapter 19;

(G) real estate appraisers licensed under 26 V.S.A. chapter 69;

(H) real estate brokers and salespersons licensed under 26 V.S.A. chapter 41;

(I) gas appliance installers, inspectors, and servicers certified under 20 V.S.A. § 2731(c)(4)(C);

(J) oil burning equipment installers, inspectors, and servicers certified under 20 V.S.A. § 2731(c)(4)(D); and

(K) limited oil burning equipment installers, inspectors, and services certified under 20 V.S.A. § 2731(c)(4)(F);

(L) each type of electrician licensed under 26 V.S.A. chapter 15; and

(M) each type of plumber licensed under 26 V.S.A. chapter 39.

(2) In accordance with subdivision (1) of this subsection, each regulatory entity shall submit to the Director of the Office the following information regarding its regulated profession:

(A) any current continuing education relating to climate change or the State's energy goals or both that is offered to the profession;

(B) any continuing education relating to climate change or the State's energy goals or both that should be offered to the profession; and

(C) a description of how the profession addresses its role in mitigating the effects of climate change and in furthering the State's energy goals, and how any current and recommended continuing education addresses those issues.

(3) "Regulatory entity" has the same meaning as in 26 V.S.A. § 3101a.

(b) On or before January 15, 2021, the Director of the Office of Professional Regulation shall compile the information submitted to the Director under subsection (a) of this section and report it, along with any further recommendations, to the Senate and House Committees on Government Operations.

* * * Effective Dates * * *

Sec. 34. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except that Secs. 28 and 29 (massage therapists, bodyworkers, and touch professionals) shall take effect on November 1, 2020.

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

An act relating to professional regulation.

(Committee vote: 5-0-0)

S. 233.

An act relating to uniform licensing standards.

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

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

* * * Office of Professional Regulation * * *

Sec. 1. 3 V.S.A. § 123 is amended to read:

§ 123. DUTIES OF OFFICE

* * *

(g)(1) ~~The Office of Professional Regulation~~ shall establish uniform procedures applicable to all of the professions and boards set forth in section 122 of this chapter, providing for:

~~(1)(A)~~ appropriate recognition of education, training, or service completed by a member of the U.S. Armed Forces toward the requirements of professional licensure; and

~~(2)(B)~~ expedited issuance of a professional license to a person who is licensed in good standing in another regulatory jurisdiction; and:

~~(A)(i)~~ whose spouse is a member of the U.S. Armed Forces and who has been subject to a military transfer to Vermont; and

~~(B)(ii)~~ who left employment to accompany his or her spouse to Vermont.

(2) The Director may evaluate specific military credentials to determine equivalency to credentials required for professions attached to the Office. The determinations shall be adopted through written policy that shall be posted on the Office's website.

* * *

(j)(1) The Office may inquire into the criminal background histories of applicants for licensure and for biennial license renewal for the following professions:

* * *

(k) For any profession attached to it, the Office shall provide a pre-application determination of an individual's criminal background. This determination shall not be binding on the Office in a future application if the

individual violates probation or parole or is convicted of another crime following the determination.

(1) The Office shall initiate this determination upon an individual's "second chance" determination request. This request shall provide documentation related to the individual's conviction or convictions, evidence of rehabilitation, and identification of the profession or professions for which the individual seeks licensure.

(2) The individual shall submit this request online, accompanied by the fee for pre-application determinations set forth in section 125 of this subchapter. If the individual thereafter applies for licensure, this pre-application fee shall be deducted from that license application fee.

(3) The Office shall:

(A) process a request within 30 days of receiving a complete request;

(B) assess the nature of the underlying conviction or convictions, the nexus to the profession or professions for which the individual seeks licensure, and the provided evidence of rehabilitation; and

(C) respond to the individual's request in writing.

(l) When, by reason of disqualification, resignation, vacancy, or necessary absence, a board is unable to form a quorum or assign one or more members to assist in the investigation and prosecution of complaints or license applications, or to adjudicate a contested case, the Secretary of State may appoint ad hoc members, either as voting members to establish a quorum at a specific meeting or as nonvoting members to assist Office investigators and prosecutors.

Sec. 2. 3 V.S.A. § 125 is amended to read:

§ 125. FEES

(a) In addition to the fees otherwise authorized by law, a board or advisor profession may charge the following fees:

* * *

(5) A pre-application criminal background determination, \$25.00.

* * *

(d) Pursuant to qualifications and procedures determined by the Director, the Office shall, upon request, waive application fees to qualified military members and military spouses.

Sec. 3. 3 V.S.A. § 136 is amended to read:

§ 136. UNIFORM CONTINUING EDUCATION EVALUATION; SUNSET REVIEW

(a) If continuing education is required by law or rule, the Office shall apply uniform standards and processes that apply to all professions regulated by the Office for the assessment and approval or rejection of continuing education offerings, informed by profession-specific policies developed in consultation with relevant boards and advisor appointees.

(b)(1) Not less than once every five years, each profession attached to the Office shall review its continuing education or other continuing competency requirements. The review results shall be in writing and address the following:

(A) the renewal requirements of the profession;

(B) the renewal requirements in other jurisdictions, particularly in the Northeast region;

(C) the cost of the renewal requirements for the profession's licensees;

(D) an analysis of the utility and effectiveness of the renewal requirements with respect to public protection; and

(E) recommendations to the Director on whether the continuing education or other continuing competency requirements should be modified.

(2) The Director shall respond to the profession within 45 days of its submitted review results. The Director may require a profession to reduce, modify, or otherwise change the renewal requirements, including by proposing any necessary amendments to statute or rule.

Sec. 4. 3 V.S.A. § 136a is added to read:

§ 136a. UNIFORM PROCESS FOR ENDORSEMENT FROM OTHER STATES

(a) Except as provided in subsection (b) of this section, all professions attached to the Office shall have an endorsement process that requires not more than three years of practice in good standing in another jurisdiction within the United States, regardless of whether that jurisdiction has licensing requirements substantially similar to those of this State.

(b) Any profession determining that three years of demonstrated practice in another jurisdiction is not adequately protective of the public shall provide its rationale to the Director, who may propose any necessary statutory or rule

amendments in order to implement more restrictive requirements for endorsement.

(c) The Director may issue to an endorsement applicant a waiver of the profession's practice requirement if there is a showing that the waiver follows State policy and the public is adequately protected.

* * * Well Drillers * * *

Sec. 5. 10 V.S.A. § 1395a is amended to read:

§ 1395a. LICENSES; RULES

(a) Licenses. The Department shall issue licenses under this subchapter. A licensee may be authorized to perform more than one class of activities under a single license. The Department shall, by rule, establish appropriate application, testing, and renewal procedures for each class of activity under a license. The rule shall include the opportunity for an applicant to take the licensing test orally or by demonstration if the applicant fails the written test. The classes of activities under a license shall be as follows:

(1) Water well driller. This class shall consist of any person engaged in the business of constructing wells for the purpose of locating, extracting, or recharging groundwater, or for the purpose of transferring heat to or from the earth's subsurface.

(2) Monitoring well driller. This class shall consist of any person engaged in the business of constructing, servicing, or closing wells drilled for the purpose of monitoring groundwater quantity or quality.

* * *

(b) Criminal background; pre-application determination. The Department shall provide a pre-application determination of an individual's criminal background. This determination shall not be binding on the Department in a future application if the individual violates probation or parole or is convicted of another crime following the determination.

(1) The Department shall initiate this determination upon an individual's "second chance" determination request. This request shall provide documentation related to the individual's conviction or convictions and evidence of rehabilitation.

(2) The individual shall submit this request online, accompanied by a pre-application fee of \$25.00. If the individual thereafter applies for licensure, this pre-application fee shall be deducted from that license application fee.

(3) The Department shall:

(A) process a request within 30 days of receiving a complete request;

(B) assess the nature of the underlying conviction or convictions, the nexus to the well-drilling profession, and the provided evidence of rehabilitation; and

(C) respond to the individual's request in writing.

(c) Continuing education; sunset review.

(1) Not less than once every five years, the Department shall review its continuing education or other continuing competency requirements for well drillers. The review results shall be in writing and address the following:

(A) the renewal requirements of the profession;

(B) the renewal requirements in other jurisdictions, particularly in the Northeast region;

(C) the cost of the renewal requirements for the profession's licensees;

(D) an analysis of the utility and effectiveness of the renewal requirements with respect to public protection; and

(E) recommendations to the Secretary on whether the continuing education or other continuing competency requirements should be modified.

(2) The Secretary shall respond to the Department within 45 days of its submitted review results. The Secretary may require the Department to reduce, modify, or otherwise change the renewal requirements, including by proposing any necessary amendments to statute or rule.

(d) Military credentials. The Department may evaluate specific military credentials to determine equivalency to credentials for well drillers. The determinations shall be adopted through written policy that shall be posted on the Department's website.

(e) Uniform process for endorsement from other states.

(1) The Department shall issue licenses for well drillers who have been licensed in good standing in another jurisdiction within the United States for at least three years, regardless of whether that jurisdiction has licensing requirements substantially similar to those of this State.

(2) If the Department determines that three years of demonstrated practice in another specific jurisdiction is not adequately protective of the public, it shall provide its rationale to the Secretary, who may propose any

necessary statutory or rule amendments in order to implement more restrictive requirements for endorsement for that jurisdiction.

(3) The Secretary may issue to an endorsement applicant a waiver of the practice requirement if there is a showing that the waiver follows State policy and the public is adequately protected.

(f) Uniform process for foreign credential verification.

(1) The Secretary shall adopt rules in consultation with the Department that prescribe a process for the Secretary to assess the equivalence of an applicant's professional credentials earned outside the United States as compared to State licensing requirements for well drillers.

(2) Any determination of equivalence by the Secretary under this section shall be in consultation with the Department, recorded in the applicant's licensing file, and binding upon the Department.

(3) In administering this section, the Secretary may rely upon third-party credential verification services. The cost of such services shall be paid by the applicant.

(g) Rules.

(1) The Department may adopt rules to implement the provisions of this subchapter and to establish well construction standards for persons engaged in the business of well construction.

(e)(2)(A) Rules relating to licensing standards shall be fair and reasonable and shall be designed and implemented to ensure that all applicants are granted licensure if they demonstrate that they possess the minimal occupational qualifications necessary for the purposes of groundwater protection. They shall not be designed or implemented for the purpose of limiting the number of licensees.

(B) All other rules to implement the provisions of this subchapter shall be rationally related to the purposes of this chapter, and shall be designed to achieve a reasonable balance between the expected governmental, societal, and occupational costs and the expected benefits.

* * * Professional Educators * * *

Sec. 6. 16 V.S.A. § 1694 is amended to read:

§ 1694. POWERS AND DUTIES OF THE STANDARDS BOARD FOR PROFESSIONAL EDUCATORS

In addition to any other powers and duties prescribed by law or incidental or necessary to the exercise of such lawful powers and duties, the Standards Board shall:

(1)(A) Adopt rules pursuant to 3 V.S.A. chapter 25 with respect to the licensing of teachers and administrators, and of speech-language pathologists and audiologists as provided in 26 V.S.A. chapter 87.

(B) Not less than once every five years, review its continuing education or other continuing competency requirements for professional educators. The review results shall be in writing and address the following:

(i) the renewal requirements for licensure and endorsements;

(ii) the renewal requirements in other jurisdictions, particularly in the Northeast region;

(iii) the cost of the renewal requirements for the licensees; and

(iv) an analysis of the utility and effectiveness of the renewal requirements with respect to the purpose set forth in section 1691 of this chapter.

* * *

(3)(A) Establish standards, including endorsements, according to which individuals may obtain a license or have one renewed or reinstated.

(B) Adopt rules for an application process to provide licensure to applicants who can demonstrate three years or more of practice in good standing in another jurisdiction within the United States, regardless of whether that jurisdiction has licensing requirements substantially similar to those of this State. The Standards Board may, by rule, exclude an endorsement from the process required by this subdivision (B) if it finds that licensure by reciprocity for the endorsement does not fulfill the goals set forth in section 1691 of this chapter.

(4) Oversee and monitor the application and licensing process administered by the office. The Standards Board may, by adoption of a written policy that is posted on the Agency's website, allow specific military credentials to satisfy one or more requirements for licensure.

* * *

Sec. 7. 16 V.S.A. § 1695a is added to read:

§ 1695a. PRE-APPLICATION CRIMINAL BACKGROUND
DETERMINATION; UNIFORM PROCESS FOR FOREIGN
CREDENTIAL VERIFICATION

(a) Pre-application criminal background determination. An individual may request a pre-application determination of the individual's criminal background. The pre-application determination shall adhere to the process set forth in section 254 of this title. Results of a pre-application determination shall not be binding on the Secretary in a future application.

(1) The individual's request for a pre-application determination shall include documentation related to criminal conviction or substantiation, evidence of rehabilitation or mitigation, and identification of which license and any endorsement the individual will seek.

(2) The individual shall submit this request on a form provided by the Secretary, accompanied by the pre-application criminal background determination fee set forth in section 1697 of this chapter. If the individual thereafter applies for licensure, this pre-application fee shall be deducted from that license application fee.

(3) The Secretary shall:

(A) process a request within 30 days of receiving a complete request;

(B) assess the nature of any underlying convictions and substantiations, the nexus to the license and endorsement sought, and the provided evidence of rehabilitation or mitigation; and

(C) respond to the individual's request in writing, stating whether the individual may seek licensure.

(b) Uniform process for foreign credential verification.

(1) The Secretary shall adopt rules in consultation with the Standards Board that prescribe a process for the Secretary to assess the equivalence of an applicant's professional credentials earned outside the United States as compared to State licensing requirements for professional educators.

(2) Any determination of equivalence by the Secretary under this subsection (b) shall be in consultation with the Standards Board, recorded in the applicant's licensing file, and binding upon the Standards Board.

(3) In administering this subsection, the Secretary may rely upon third-party credential verification services. The cost of such services shall be paid by the applicant.

(4) The provisions relating to preliminary license denials set forth in subsection 1704(a) of this chapter shall apply to a license application that is preliminarily denied for nonequivalence under this subsection.

Sec. 8. 16 V.S.A. § 1697 is amended to read:

§ 1697. FEES

(a) Each individual applicant and licensee shall be subject to the following fees:

* * *

(8) Pre-application criminal background determination \$25.00

(b) Pursuant to qualifications and procedures determined by the Secretary, the Agency shall, upon request, waive application fees to qualified military members and military spouses.

(c) Fees collected under this section shall be credited to special funds established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be available to the Agency to offset the costs of providing those services.

* * * Electricians * * *

Sec. 9. 26 V.S.A. § 901 is amended to read:

§ 901. ELECTRICIANS' LICENSING BOARD; MEMBERSHIP; POWERS

(a) Creation. A board for the licensing of electricians is created, to be known as the "Electricians' Licensing Board."

(b) Membership. ~~The board~~ Board consists of the Commissioner of Public Safety or a member of that Department designated by the Commissioner and four persons appointed by the Governor with the advice and consent of the Senate.

(1) The four appointed members shall serve for terms of three years, beginning on July 1 in the year of appointment, and they shall include one licensed master electrician, one licensed journeyman electrician, one person associated with the public electrical utility industry who is knowledgeable in technical as well as operational issues of the electrical utility industry, and one person associated with the fire insurance industry.

(2) ~~No~~ Not more than two appointed members' terms shall expire in the same year.

(e)(3) The Governor shall appoint one of the members of the Board to serve as its chair.

(c) Criminal background; pre-application determination. The Board shall provide a pre-application determination of an individual's criminal background. This determination shall not be binding on the Board in a future application if the individual violates probation or parole or is convicted of another crime following the determination.

(1) The Board shall initiate this determination upon an individual's "second chance" determination request. This request shall provide documentation related to the individual's conviction or convictions and evidence of rehabilitation.

(2) The individual shall submit this request online, accompanied by the fee for pre-application determinations set forth in section 905 of this chapter. If the individual thereafter applies for licensure, this pre-application fee shall be deducted from that license application fee.

(3) The Board shall:

(A) process a request within 30 days of receiving a complete request;

(B) assess the nature of the underlying conviction or convictions, the nexus to the electrician profession, and the provided evidence of rehabilitation; and

(C) respond to the individual's request in writing.

(d) Continuing education; sunset review.

(1) Not less than once every five years, the Board shall review electricians' continuing education or other continuing competency requirements. The review results shall be in writing and address the following:

(A) the renewal requirements for electricians;

(B) the renewal requirements in other jurisdictions, particularly in the Northeast region;

(C) the cost of the renewal requirements for electricians;

(D) an analysis of the utility and effectiveness of the renewal requirements with respect to public protection; and

(E) recommendations to the Commissioner on whether the continuing education or other continuing competency requirements should be modified.

(2) The Commissioner shall respond to the Board within 45 days of its submitted review results. The Commissioner may require the Board to reduce, modify, or otherwise change the renewal requirements, including by proposing any necessary amendments to statute or rule.

Sec. 10. 26 V.S.A. § 905 is amended to read:

§ 905. APPLICATION; EXAMINATIONS AND FEES

* * *

(g) The fee for a pre-application criminal background determination shall be \$25.00.

(h) Pursuant to qualifications and procedures determined by the Commissioner, the Board shall, upon request, waive application fees for qualified military members and military spouses.

Sec. 11. 26 V.S.A. § 906 is amended to read:

§ 906. EXAMINATIONS NOT REQUIRED

(a) Generally. A license for an individual who is licensed by another state or who has received designation by the U.S. Armed Forces as a 12R ~~Electrician~~ electrician or equivalent shall be issued without examination as provided pursuant to this section on payment of the required fee.

(b)(1) Reciprocity. A master's or journeyman's license, as the case may be, shall be issued to a person to whom a master electrician's license or a journeyman electrician's license has been previously issued by another state, whose standards are equivalent to those of this State, if under the laws or regulations of the state issuing the license a similar privilege is granted to electricians licensed under the laws of this State.

(2) Uniform process for endorsement from other states.

(A) The Board shall issue a license to master and journeyman electricians who have been licensed in good standing in another jurisdiction within the United States for at least three years, regardless of whether that jurisdiction meets the reciprocity requirements of subdivision (1) of this subsection.

(B) If the Board determines that three years of demonstrated practice in another specific jurisdiction is not adequately protective of the public, it shall provide its rationale to the Commissioner, who may propose any necessary statutory or rule amendments in order to implement more restrictive requirements for endorsement for that jurisdiction.

(C) The Commissioner may issue to an endorsement applicant a waiver of the practice requirement if there is a showing that the waiver follows State policy and the public is adequately protected.

(c) Except as otherwise provided by law, a journeyman's license shall be issued to a service member or veteran who:

(1) submits a complete application and any documentation required by the Board;

(2) has received designation by the U.S. Armed Forces as a 12R ~~Electrician~~ electrician or equivalent; and

(3) has completed a minimum of 8,000 hours and four years of active duty field work as a 12R ~~Electrician~~ electrician or equivalent.

* * *

Sec. 12. 26 V.S.A. § 907 is amended to read:

§ 907. RECOGNITION OF EXPERIENCE

(a) The Board, in determining the qualifications of an applicant for a license, may in its discretion give recognition:

(1) in the case of an application for a master's license, to the applicant's experience as a licensed journeyman in another state;

(2) in the case of an application for a journeyman's license, to an apprenticeship served in another state; or

(3) to experience or prior qualifications.

(b)(1) The Board, in determining the qualifications of a service member or veteran, as defined pursuant to section 906 of this subchapter, who is applying for a master's license, shall give recognition to the applicant's:

~~(4)(A)~~ experience as a 12R electrician or equivalent in the U.S. Armed Forces; and

~~(2)(B)~~ other experience or prior qualifications.

(2) The Board may evaluate specific military credentials to determine equivalency to credentials within the Board's jurisdiction. The determinations shall be adopted through written policy that shall be posted on the Board's website.

(c)(1) The Commissioner shall adopt rules in consultation with the Board that prescribe a process for the Commissioner to assess the equivalence of an applicant's professional credentials earned outside the United States as compared to State licensing requirements for electricians.

(2) Any determination of equivalence by the Commissioner under this subsection shall be in consultation with the Board, recorded in the applicant's licensing file, and binding upon the Board.

(3) In administering this section, the Board may rely upon third-party credential verification services. The cost of such services shall be paid by the applicant.

* * * Board of Medical Practice * * *

Sec. 13. 26 V.S.A. § 1353 is amended to read:

§ 1353. POWERS AND DUTIES OF THE BOARD

The Board shall have the following powers and duties to:

* * *

(11) Provide a pre-application determination of an individual's criminal background. This determination shall not be binding on the Board in a future application if the individual violates probation or parole or is convicted of another crime following the determination.

(A) The Board shall initiate this determination upon an individual's "second chance" determination request. This request shall provide documentation related to the individual's conviction or convictions, evidence of rehabilitation, and identification of the profession or professions for which the individual seeks licensure.

(B) The individual shall submit this request online, accompanied by the fee for pre-application determinations set forth in section 1401a of this chapter. If the individual thereafter applies for licensure, this pre-application fee shall be deducted from that license application fee.

(C) The Board shall:

(i) process a request within 30 days of receiving a complete request;

(ii) assess the nature of the underlying conviction or convictions, the nexus to the profession or professions for which the individual seeks licensure, and the provided evidence of rehabilitation; and

(iii) respond to the individual's request in writing.

(12)(A) Establish uniform procedures applicable to all of the professions under its jurisdiction, providing for:

(i) appropriate recognition of education, training, or service completed by a member of the U.S. Armed Forces toward the requirements of professional licensure;

(ii) expedited issuance of a professional license to a person who is licensed in good standing in another regulatory jurisdiction:

(I) whose spouse is a member of the U.S. Armed Forces and who has been subject to a military transfer to Vermont; and

(II) who left employment to accompany his or her spouse to Vermont.

(B) The Board may evaluate specific military credentials to determine equivalency to credentials within the Board's jurisdiction. The determinations shall be adopted through written policy that shall be posted on the Board's website.

(13)(A) Adopt rules that prescribe a process for the Board to assess the equivalence of an applicant's professional credentials earned outside the United States as compared to State licensing requirements for those professions within the Board's jurisdiction.

(B) Any determination of equivalence by the Board under this subdivision (13) shall be recorded in the applicant's licensing file.

(C) In administering this section, the Board may rely upon third-party credential verification services. The cost of such services shall be paid by the applicant.

(14)(A) Not less than once every five years, review the continuing education and other continuing competency requirements for each of the professions it regulates. The review results shall be in writing and address the following:

(i) the renewal requirements of the profession;

(ii) the renewal requirements in other jurisdictions, particularly in the Northeast region;

(iii) the cost of the renewal requirements for the profession's licensees;

(iv) an analysis of the utility and effectiveness of the renewal requirements with respect to public protection; and

(v) recommendations to the Commissioner of Health on whether the continuing education or other continuing competency requirements should be modified.

(B) The Commissioner of Health shall respond to the Board within 45 days of its submitted review results. The Commissioner may require the Board to reduce, modify, or otherwise change the renewal requirements, including by proposing any necessary amendments to statute or rule.

Sec. 14. 26 V.S.A. § 372 is amended to read:

§ 372. LICENSURE WITHOUT EXAMINATION

(a) A person who is licensed under the laws of another jurisdiction and who desires licensure as a podiatrist without examination shall apply to the Board in writing on a form furnished by it and pay the specified fee. The Board shall license such persons that person if it deems that they have person has met requirements in the other jurisdiction that are substantially equal to those of this State. The Board may make adopt such rules as are reasonable and necessary for the protection of the public to assure ensure that applicants under this section are professionally qualified.

(b)(1) The Board shall have an endorsement process that requires not more than three years of practice in good standing in another jurisdiction within the United States, regardless of whether that jurisdiction has licensing requirements substantially equal to those of this State, so long as the applicant meets one of the following postgraduate training requirements:

(A) A graduate of a U.S. or Canadian podiatric school accredited by a body that is acceptable to the Board shall have successfully completed at least two years of postgraduate training in a U.S. or Canadian program accredited by an organization that is acceptable to the Board; or

(B) A graduate of a Board-approved podiatric school outside the United States or Canada shall have successfully completed at least three years of postgraduate training in a U.S. or Canadian program accredited by an organization that is acceptable to the Board.

(2) If the Board determines that three years of demonstrated practice in another specific jurisdiction is not adequately protective of the public, it shall provide its rationale to the Commissioner, who may propose any necessary statutory or rule amendments in order to implement more restrictive requirements for endorsement for that jurisdiction.

(3) The Board may issue to an endorsement applicant a waiver of the practice requirement if there is a showing that the waiver follows State policy and the public is adequately protected.

Sec. 15. 26 V.S.A. § 1395 is amended to read:

§ 1395. LICENSE WITHOUT EXAMINATION

(a) Without examination, the Board may, upon payment of the required fee, issue a license to a reputable physician who personally appears and presents a certified copy of a certificate of registration or a license issued to him or her in a jurisdiction whose requirements for registration are deemed by the Board as equivalent to those of this State, providing that such jurisdiction grants the same reciprocity to a Vermont physician or by the National Board of Medical Examiners.

(b) Without examination, the Board may issue a license to a reputable physician who is a resident of a foreign country and who shall furnish the Board with satisfactory proof that he or she has been appointed to the faculty of a medical college accredited by the Liaison Committee on Medical Education (LCME) and located within the State of Vermont.

(1) An applicant for a license under this subsection shall furnish the Board with satisfactory proof that he or she has attained the age of majority, is of good moral character, is licensed to practice medicine in his or her country of residence, and that he or she has been appointed to the faculty of an LCME accredited medical college located within the State of Vermont. The information submitted to the Board concerning the applicant's faculty appointment shall include detailed information concerning the nature and term of the appointment and the method by which the performance of the applicant will be monitored and evaluated.

(2) A license issued under this subsection shall be for a period no longer than the term of the applicant's faculty appointment and may, in the discretion of the Board, be for a shorter period. A license issued under this subsection shall expire automatically upon termination for any reason of the licensee's faculty appointment.

(c) [Repealed.]

(d)(1) The Board shall have an endorsement process that requires not more than three years of practice in good standing in another jurisdiction within the United States, regardless of whether that jurisdiction meets the requirements of subsection (a) of this section, so long as the applicant meets one of the following postgraduate training requirements:

(A) A graduate of a U.S. or Canadian medical school accredited by a body that is acceptable to the Board shall have successfully completed at least two years of postgraduate training in a U.S. or Canadian program accredited by an organization that is acceptable to the Board; or

(B) A graduate of a Board-approved medical school outside the United States or Canada shall have successfully completed at least three years of postgraduate training in a U.S. or Canadian program accredited by an organization that is acceptable to the Board.

(2) If the Board determines that three years of demonstrated practice in another specific jurisdiction is not adequately protective of the public, it shall provide its rationale to the Commissioner, who may propose any necessary statutory or rule amendments in order to implement more restrictive requirements for endorsement for that jurisdiction.

(3) The Board may issue to an endorsement applicant a waiver of the practice requirement if there is a showing that the waiver follows State policy and the public is adequately protected.

Sec. 16. 26 V.S.A. § 1401a is amended to read:

§ 1401a. FEES

(a) The Department of Health shall collect the following fees:

* * *

(4) Pursuant to qualifications and procedures determined by the Board, the Department shall, upon request, waive application fees to qualified military members and military spouses.

(b) The Department of Health may charge the following fees:

* * *

(5) Pre-application criminal background determination, \$25.00.

* * *

* * * Nursing * * *

Sec. 17. 26 V.S.A. § 1625 is amended to read:

§ 1625. PRACTICAL NURSE LICENSURE BY EXAMINATION

To be eligible for licensure as a practical nurse by examination, an applicant shall:

(1) complete an approved U.S. practical nursing education program meeting requirements set by the Board by rule or completion of equivalent study in a program conducted by the U.S. Armed Forces satisfactory to the Director; and

(2) complete examinations as determined by the Board.

* * * Plumbers * * *

Sec. 18. 26 V.S.A. § 2181 is amended to read:

§ 2181. PLUMBER'S EXAMINING BOARD; MEMBERSHIP; POWERS

(a) Creation. A The Plumber's Examining Board, within the Department of Public Safety, ~~hereinafter called "Board,"~~ shall consist of five members, one of whom shall be the Commissioner of Public Safety or designee and one of whom shall represent the Commissioner of Health or designee. The remaining three members shall be appointed by the Governor with the advice and consent of the Senate. One of the appointive members shall be a master plumber, one shall be a journey plumber, and one shall be a public member not associated with the plumbing or heating trades.

(b) General authority. The Board shall have authority to examine and license master plumbers and journeyman plumbers and specialists and shall have the right to make reasonable rules.

(c) Disciplinary actions. Upon notice to the affected person and after a hearing, the Board may refuse to issue a license or may suspend or revoke a license or may take other disciplinary action against a licensee for any of the following reasons:

* * *

(d) Military credentials. The Board may evaluate specific military credentials to determine equivalency to credentials within its jurisdiction. The determinations shall be adopted through written policy that shall be posted on the Board's website.

(e) Foreign credential verification.

(1) The Commissioner shall adopt rules in consultation with the Board that prescribe a process for the Commissioner to assess the equivalence of an applicant's professional credentials earned outside the United States as compared to State licensing requirements for plumbers.

(2) Any determination of equivalence by the Commissioner under this subsection shall be in consultation with the Board, recorded in the applicant's licensing file, and binding upon the Board.

(3) In administering this subsection, the Board may rely upon third-party credential verification services. The cost of such services shall be paid by the applicant.

(f) Criminal background; pre-application determination. The Board shall provide a pre-application determination of an individual's criminal

background. This determination shall not be binding on the Board in a future application if the individual violates probation or parole or is convicted of another crime following the determination.

(1) The Board shall initiate this determination upon an individual's "second chance" determination request. This request shall provide documentation related to the individual's conviction or convictions, evidence of rehabilitation, and identification of the profession or professions for which the individual seeks licensure.

(2) The individual shall submit this request online, accompanied by the fee for pre-application determinations set forth in section 2193 of this chapter. If the individual thereafter applies for licensure, this pre-application fee shall be deducted from that license application fee.

(3) The Board shall:

(A) process a request within 30 days of receiving a complete request;

(B) assess the nature of the underlying conviction or convictions, the nexus to the profession or professions for which the individual seeks licensure, and the provided evidence of rehabilitation; and

(C) respond to the individual's request in writing.

(g) Continuing education; sunset review.

(1) Not less than once every five years, the Board shall review plumbers' continuing education or other continuing competency requirements. The review results shall be in writing and address the following:

(A) the renewal requirements of the profession;

(B) the renewal requirements in other jurisdictions, particularly in the Northeast region;

(C) the cost of the renewal requirements for the profession's licensees;

(D) an analysis of the utility and effectiveness of the renewal requirements with respect to public protection; and

(E) recommendations to the Commissioner on whether the continuing education or other continuing competency requirements should be modified.

(2) The Commissioner shall respond to the Board within 45 days of its submitted review results. The Commissioner may require the Board to reduce,

modify, or otherwise change the renewal requirements, including by proposing any necessary amendments to statute or rule.

Sec. 19. 26 V.S.A. § 2193 is amended to read:

§ 2193. APPLICATIONS AND EXAMINATIONS; FEES

* * *

(c) License and renewal fees are as follows:

* * *

(8) Pre-application criminal background determination \$25.00

* * *

(e) Pursuant to qualifications and procedures determined by the Commissioner, the Board shall, upon request, waive application fees to qualified military members and military spouses.

Sec. 20. 26 V.S.A. § 2194 is amended to read:

§ 2194. EXAMINATIONS NOT REQUIRED; TEMPORARY LICENSES

(a) Generally.

(1) Reciprocity.

(A) Appropriate licenses without examination may be issued to a person to whom a master plumber's license or a journeyman plumber's license or a specialty license or equivalent has been previously issued by another state or municipality upon the payment of the required fee if:

~~(A)(i)~~ that state or municipality maintained a standard of requirements equivalent to those of this State; and

~~(B)(ii)~~ the applicant presents satisfactory proof to the Board that he or she is a bona fide licensee.

~~(2)(B)~~ An applicant under this ~~subsection~~ subdivision (1) shall be exempt from examination only if the applicant holds a license from a foreign state or municipality and if under the laws or regulations of the foreign state or municipality issuing the license a like exemption or reciprocal agreement, or both, is granted to licensees under the laws of this State.

(2) Uniform process for endorsement from other states.

(A) The Board shall issue licenses for master plumbers and journeyman plumbers and specialists who have been licensed in good standing in another jurisdiction within the United States for at least three years,

regardless of whether that jurisdiction meets the reciprocity requirements of subdivision (1) of this subsection.

(B) If the Board determines that three years of demonstrated practice in another specific jurisdiction is not adequately protective of the public, it shall provide its rationale to the Commissioner, who may propose any necessary statutory or rule amendments in order to implement more restrictive requirements for endorsement for that jurisdiction.

(C) The Commissioner may issue to an endorsement applicant a waiver of the practice requirement if there is a showing that the waiver follows State policy and the public is adequately protected.

(b) Service members and veterans. Except as otherwise provided by law, a journeyman's license shall be issued without examination and upon payment of the required fee to an applicant who is a service member or veteran who:

* * *

(c) Definitions. As used in this section:

* * *

Sec. 21. ADOPTION OF REQUIRED RULES

An agency required to adopt rules under this act shall finally adopt those rules on or before July 1, 2021, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

Sec. 22. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee vote: 5-0-0)

S. 316.

An act relating to special immigration juvenile status.

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

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

Sec. 1. 4 V.S.A. § 33 is amended to read:

§ 33. JURISDICTION; FAMILY DIVISION

(a) Notwithstanding any other provision of law to the contrary, the Family Division shall have exclusive jurisdiction to hear and dispose of the following proceedings filed or pending on or after October 1, 1990:

* * *

(18) Concurrent with the Probate Division, special immigration judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R. Sec. 204.11) issued pursuant to 14 V.S.A. chapter 111, subchapter 14.

* * *

Sec. 2. 4 V.S.A. § 35 is amended to read:

§ 35. JURISDICTION; PROBATE DIVISION

The Probate Division shall have jurisdiction of:

* * *

(25) grandparent visitation proceedings under 15 V.S.A. chapter 18; ~~and~~

(26) other matters as provided by law; and

(27) concurrent with the Family Division, special immigration judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R. Sec. 204.11) issued pursuant to 14 V.S.A. chapter 111, subchapter 14.

Sec. 3. 14 V.S.A. chapter 111, subchapter 14 is added to read:

Subchapter 14. Special Immigration Status

§ 3098. SPECIAL IMMIGRATION JUVENILE STATUS; JURISDICTION AND FINDINGS

(a) Jurisdiction and Findings. The court has jurisdiction under Vermont law to make judicial determinations regarding the custody and care of children within the meaning of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101(a)(27)(J) and 8 C.F.R. Sec. 204.11). The court is authorized to make the findings necessary to enable a child to petition the U.S. Citizenship and Immigration Service for classification as a special immigrant juvenile pursuant to 8 U.S.C. Sec. 1101(a)(27)(J).

(b)(1) If an order is requested from the court making the necessary findings regarding special immigrant juvenile status as described in subsection (a) of this section, the court shall issue an order if there is evidence to support those findings, which may include a declaration by the child who is the subject of the petition. The order issued by the court shall include all of the following findings:

(A) The child was either of the following:

(i) Declared a dependent of the court.

(ii) Legally committed to or placed under the custody of a State agency or department or an individual or entity appointed by the court. The court shall indicate the date on which the dependency, commitment, or custody was ordered.

(B) That reunification of the child with one or both of the child's parents was determined not to be viable because of abuse, neglect, abandonment, or a similar basis pursuant to Vermont law. The court shall indicate the date on which reunification was determined not to be viable.

(C) That it is not in the best interests of the child to be returned to the child's or his or her parent's previous country of nationality or country of last habitual residence.

(2) If requested by a party, the court may make additional findings that are supported by evidence.

(c) In any judicial proceedings in response to a request that the court make the findings necessary to support a petition for classification as a special immigrant juvenile, information regarding the child's immigration status that is not otherwise protected by State laws shall remain confidential. This information shall also be exempt from public inspection and copying under the Public Records Act and shall be kept confidential, except that the information shall be available for inspection by the court, the child who is the subject of the proceeding, the parties, the attorneys for the parties, the child's counsel, and the child's guardian.

(d) As used in this section, "court" means the Probate Division and the Family Division of the Superior Court.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee vote: 5-0-0)

CONCURRENT RESOLUTIONS FOR ACTION

Concurrent Resolutions For Action Under Joint Rule 16

The following joint concurrent resolutions have been introduced for approval by the Senate and House. They will be adopted by the Senate unless a Senator requests floor consideration before the end of the session. Requests for floor consideration should be communicated to the Secretary's Office.

S.C.R. 19 (For text of Resolution, see Addendum to Senate Calendar for March 12, 2020.)

H.C.R. 287 - 296 (For text of Resolutions, see Addendum to House Calendar for March 12, 2020)

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.

Craig Bolio of Winooski – Commissioner, Department of Taxes – By Sen. Cummings for the Committee on Finance. (01/21/20)

Sabina Brochu of Williston - Member, State Board of Education - By Sen. Ingram for the Committee on Education. (01/24/20)

Kyle Courtois of Georgia - Member, State Board of Education - By Sen. Perchlik for the Committee on Education. (01/24/20)

Margaret Tandoh of South Burlington – Member, Board of Medical Practice – By Sen. McCormack for the Committee on Health and Welfare. (02/11/20)

Holly Morehouse of Burlington – Member, Children and Family Council for Prevention Programs – By Sen. Lyons for the Committee on Health and Welfare. (02/12/20)

Susan Hayward of Middlesex – Member, Capitol Complex Commission – By Sen. Benning for the Committee on Institutions. (02/14/20)

Heather Shouldice – Member, Capitol Complex Commission – By Sen. Benning for the Committee on Institutions. (02/14/20)

Dorinne Dorfman – Member, Children and Family Council for Prevention Programs – Sen. Cummings for the Committee on Health and Welfare. (02/25/20)

Richard Bernstein of Jericho – Member, Board of Medical Practice – Sen. Ingram for the Committee on Health and Welfare. (03/10/20)

Dawn Philibert of Williston – Member, State Board of Health – Sen. Ingram for the Committee on Health and Welfare. (03/10/20)

PUBLIC HEARINGS

March 19, 2020 - 5:00 p.m. - 7:00 p.m. - Vermont Law School Campus, Oakes 107, Royalton, VT - Re: State Code of Ethics - Senate Committee on Government Operations.

NOTICE OF JOINT ASSEMBLY

March 19, 2020 - 10:30 a.m. - Retention of five Superior Court Judges: David A. Barra, Michael J. Harris, Katherine Anne Hayes, Martin A. Maley, John William Valente and one Environmental Judge, Thomas G. Walsh.

FOR INFORMATION ONLY

CROSSOVER DATES

The Joint Rules Committee established the following Crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 13, 2020**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by Friday March 13, 2020.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 20, 2020**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

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

Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills.