

Senate Calendar

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ACTION CALENDAR
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 THURSDAY, 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?

UNFINISHED BUSINESS OF FRIDAY, MARCH 13, 2020

Third Reading

S. 339.

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

Amendment to S. 339 to be offered by Senator Rodgers before Third Reading

Senator Rodgers moves to amend the bill in Sec. 36, 23 V.S.A. § 1050, subsection (b) in the subsection heading by striking out the words

“Approaching law enforcement and emergency vehicles” and inserting in lieu thereof the words Approaching law enforcement, emergency, and towing and repair vehicles

Amendment to S. 339 to be offered by Senator Rodgers before Third Reading

Senator Rodgers moves to amend the bill as follows:

By adding a new Sec. 38a and reader assistance heading to read as follows:

* * * Inspections * * *

Sec. 38a. 23 V.S.A. § 1222(a) is amended to read:

(a) Except for school buses, which shall be inspected as prescribed in section 1282 of this title, and motor buses as defined in subdivision 4(17) of this title, which shall be inspected twice during the calendar year at six-month intervals, all motor vehicles registered in this State with a gross vehicle weight of 12,000 pounds or more shall undergo a safety and visual emissions inspection once each year and all motor vehicles that are registered in this State and are 16 model years old or less with a gross vehicle weight of 12,000 pounds or more shall undergo an emissions or on board diagnostic (OBD) systems inspection once each year as applicable. Any motor vehicle, trailer, or semi-trailer not currently inspected in this State shall be inspected within 15 days following the date of its registration in the State of Vermont.

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.~~ 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 deportment 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 prefiling 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 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)

UNFINISHED BUSINESS OF 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)

NEW BUSINESS

Third Reading

S. 191.

An act relating to tax increment financing districts.

S. 226.

An act relating to statewide public school employee health benefits.

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; ~~or~~

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

(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. 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)

NOTICE CALENDAR
Committee Resolution for Second Reading

J.R.S. 45.

Joint resolution urging Congress to reassess the federal definition of hemp in order to allow the product to contain up to one percent delta-9 tetrahydrocannabinol (THC).

By the Committee on Agriculture. (Senator Starr for the Committee.)

Text of Resolution:

Whereas, under the Agriculture Improvement Act of 2018, also known as the 2018 Farm Bill, hemp was removed from the list of controlled substances and production was therefore legalized throughout the United States, and

Whereas, a variety of products can be made from hemp through the use of its fiber, seed, seed oil, or floral extracts. Hemp can be found in products such as paper, fabric, auto parts, animal bedding, body care products, and essential oils, and

Whereas, cannabidiol (CBD) is a chemical compound of Cannabis sativa, bearing little to no psychoactive effects, and is being evaluated for its role as a food additive or health supplement, and

Whereas, economic forecasts predict that the total collective market in CBD sales in the United States will be between \$15 billion to \$20 billion annually by 2025, and

Whereas, in 2019, the Vermont Agency of Agriculture, Food and Markets approved 983 permits to grow or process hemp on 8,880 acres in Vermont, and

Whereas, hemp was grown in every county of the State in 2019, and

Whereas, cultivators and processors of hemp in Vermont have invested millions of dollars to purchase the equipment and resources necessary to successfully produce hemp and hemp products, and

Whereas, the development and growth of the hemp industry in Vermont is critical to improving the health and vitality of the rural economy of the State; and

Whereas, the federal government defines hemp in the 2018 Farm Bill as “the plant Cannabis sativa L. and any part of that plant, including the seeds thereof and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol level of not more than 0.3 percent on a dry weight basis,” and

Whereas, hemp farmers and processors encourage Congress to reassess the definition of hemp as referenced in the 2018 Farm Bill and increase the farm production values to one percent tetrahydrocannabinol (THC) in order to allow hemp farmers to increase yield potential per acre and profitability for all hemp grown in the State, and

Whereas, increasing yield potential per acre equates to increased profit potential for Vermont's farm families and hemp processors, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly urges Congress to revise the current definition of hemp found in the Agriculture Improvement Act of 2018, increasing the THC threshold from 0.3 percent to 1.0 percent, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Vermont Congressional Delegation, the President Pro Tempore and Secretary of the U.S. Senate, and the Speaker of the U.S. House of Representatives.

Favorable

S. 242.

An act relating to funding to support a dental therapy laboratory at Vermont Technical College.

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

(Committee vote: 5-0-0)

Second Reading

Favorable with Recommendation of Amendment

S. 46.

An act relating to ethnic and social equity studies standards for public schools.

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

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

Sec. 1. FINDINGS

(a) 2018 Acts and Resolves No. 173, Sec. 11 directed the Agency of Education to undertake a study examining and evaluating the current formula

used to weigh economically disadvantaged students, English language learners, and secondary-level students in Vermont for purposes of calculating equalized pupils. The study was also to consider whether new cost factors and weights should be included in the equalized pupil calculation.

(b) The findings from the Pupil Weighting Factors Report dated December 23, 2019 (Report), produced by a University of Vermont-led team of researchers including national experts on student weighting, were stark, stating that “[n]either the factors considered by the [current] formula nor the value of the weights reflect contemporary education circumstances and costs.” The Report also found that the current “values for the existing weights have weak ties, if any, with evidence describing the difference in the costs of educating students with disparate needs or operating schools in different contexts.”

(c) As a corrective to this situation, the major recommendations of the Report are straightforward, specifically that the General Assembly increase certain of the existing weights and that it add population density (rurality) as a new weighting factor, given the Report’s finding that rural districts pay more to educate a student. However, given the statewide nature of Vermont’s education funding system, and the reality that any change in the weighting formula is complex due to its relationship to other educational policies and will produce fluctuations in tax rates across the State, the General Assembly has chosen to develop a phased approach to revising the weighting formula.

Sec. 2. PUPIL WEIGHTING FACTORS; IMPLEMENTATION REPORT; PUBLIC OUTREACH

(a) On or before December 15, 2020, the Agency of Education, in collaboration with the State Board of Education and stakeholders from the education community, including the Vermont Superintendents Association, the Vermont School Boards Association, the Vermont Principals Association, and the Vermont-NEA, shall develop a plan of implementation (Implementation Plan) for the Report’s recommended weighting changes, found in Table E.1 of the Report’s Executive Summary, under the heading “New Weight Derived from Models with Controls for SWDs.” This Implementation Plan shall include:

(1) a timeline for phasing in the equalized pupil weighting changes over three years;

(2) a design for the implementation that is sensitive to the effect on property taxes and budgets in all of Vermont’s school districts; and

(3) consideration of the new formula’s interaction with other provisions of existing law, including the excess spending penalty threshold, the hold-

harmless provision, the effect on non-operating districts and the districts to which they pay tuition, small school grants, and incentives created under 2015 Acts and Resolves No. 46.

(b) As part of its collaboration with the Agency of Education under subsection (a) of this section, on or before December 1, 2020, the State Board of Education shall hold not less than six public meetings in different regions of the State, both to help educate the public about the financial realities of the weighting formula and any changes to it and to gather public input on the Report and its proposed implementation. The Board shall refer this testimony to the Agency of Education, which shall use the input to inform its Implementation Plan.

(c) The Agency will deliver its completed Implementation Plan to the House and Senate Committees on Education, and to the House Ways and Means and to the Senate Finance Committees, no later than December 15, 2020.

Sec. 3. REQUIREMENT FOR ADDITIONAL LEGISLATIVE ACTION

During the first year of the 2021-2022 biennium, the House and Senate Committees on Education shall consider the Agency's Implementation Plan, making such changes as they may deem necessary. A positive vote of both the House and Senate, and approval by the Governor, would then be required to put the Implementation Plan into effect.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to the implementation of the Pupil Weighting Factors Report.

(Committee vote: 4-2-0)

S. 59.

An act relating to the creation of the Sports Betting Study Committee.

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

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

Sec. 1. SPORTS BETTING; FINDINGS

The General Assembly finds that:

- (1) An estimated 28 percent of adults in the United States bet on sports.
- (2) Based on current participation rates and expected growth, studies have estimated that Vermont could generate from \$1.1 million to \$4.2 million in gaming revenue taxes.
- (3) As of March 2020, 15 states have active legal sports betting operations while an additional five states and Washington, D.C. have enacted laws or adopted ballot measures to permit legal sports betting.
- (4) Legislation has also been introduced in at least 26 states, including Vermont, to legalize, regulate, and tax sports betting.
- (5) Given the widespread participation in sports betting, the General Assembly finds that careful examination of whether and how best to regulate sports betting in Vermont and protect Vermonters involved in sports betting is necessary.

Sec. 2. SPORTS BETTING; STUDY COMMITTEE; REPORT

(a) Creation. There is created the Sports Betting Study Committee to examine whether and how to regulate sports betting in Vermont.

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

- (1) the Attorney General or designee;
- (2) the Commissioner of Liquor and Lottery or designee;
- (3) the Commissioner of Taxes or designee;
- (4) the Secretary of State or designee;
- (5) the Secretary of Commerce and Community Development or designee;
- (6) two current members of the Senate, who shall be appointed by the Committee on Committees; and
- (7) two current members of the House, who shall be appointed by the Speaker of the House.

(c) Powers and duties. The Study Committee shall study various models for legalizing, taxing, and regulating sports betting, including the following issues:

(1) studies carried out by other states concerning the legalization, taxation, and regulation of sports betting;

(2) laws enacted by other states to legalize, tax, and regulate sports betting;

(3) potential models for legalizing and regulating sports betting in Vermont, including any advantages or drawbacks to each model;

(4) potential models for legalizing and regulating online sports betting, including any advantages or drawbacks to each model;

(5) potential tax and fee structures for sports betting activities; and

(6) potential restrictions or limitations on the types of sports that may be bet on.

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

(e) Report. On or before December 15, 2020, the Study Committee shall submit a written report to the House Committee on General, Housing, and Military Affairs and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action.

(f) Meetings.

(1) The Attorney General or designee shall call the first meeting of the Committee to occur on or before September 1, 2020.

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

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

(4) The Committee shall cease to exist on December 30, 2020.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, legislative members of the Committee serving in their capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than four meetings. These payments shall be made from monies appropriated to the General Assembly.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee vote: 5-0-0)

S. 99.

An act relating to spousal support and maintenance reform.

Reported favorably with recommendation of amendment by Senator White 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. 15 V.S.A. § 752 is amended to read:

§ 752. MAINTENANCE

(a) In an action under this chapter, the court may order either spouse to make maintenance payments, either rehabilitative or long term in nature, to the other spouse if it finds that the spouse seeking maintenance:

(1) lacks sufficient income or property, or both, including property apportioned in accordance with section 751 of this title, to provide for his or her reasonable needs; and

(2) is unable to support himself or herself through appropriate employment at the standard of living established during the civil marriage or is the custodian of a child of the parties.

(b) The maintenance order shall be in such amounts and for such periods of time as the court deems just, after considering all relevant factors, including:

(1) the financial resources of the party seeking maintenance, the property apportioned to the party, the party's ability to meet his or her needs independently, and the extent to which a provision for support of a child living with the party contains a sum for that party as custodian;

(2) the time and expense necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

(3) the standard of living established during the civil marriage;

(4) the duration of the civil marriage;

(5) the age and the physical and emotional condition of each spouse;

(6) the ability of the spouse from whom maintenance is sought to meet both his or her own reasonable needs while meeting those of the spouse seeking maintenance and those of the spouse seeking maintenance, taking into account the standard of living established during the civil marriage and the extent to which the parties must both fairly adjust their standards of living based on the creation and maintenance of separate households;

(7) inflation with relation to the cost of living;

(8) the impact of both parties reaching the age of eligibility to receive full retirement benefits under Title II of the federal Social Security Act or the parties' actual retirement, including any expected discrepancies in federal Social Security Retirement benefits; and

(9) the following guidelines:

Length of marriage	% of the difference between parties' gross incomes	Duration of alimony award as % <u>of</u> length of marriage
0 to <5 years	0–16%	No alimony or short-term alimony up to one year
5 to <10 years	12–29%	20–50% (1–5 yrs)
10 to <15 years	16–33%	40–60% (4–9 yrs)
15 to <20 years	20–37%	40–70% (6–14 yrs)
20+ years	24–41%	45% (9–20+ yrs)

Sec. 2. 15 V.S.A. § 758 is amended to read:

§ 758. REVISION OF JUDGMENT RELATING TO MAINTENANCE

On motion of either party and due notice, and upon a showing of a real, substantial, and unanticipated change of circumstances, the court may from time to time annul, vary, or modify a judgment relative to rehabilitative or long-term maintenance, whether or not such judgment relative to maintenance is based upon a stipulation or an agreement. The court may consider the remarriage of either party as a factor in whether there has been a showing of a real, substantial, and unanticipated change in circumstances. The party seeking a revision shall have the burden of proving the change in circumstances.

Sec. 3. REPEAL

2017 Acts and Resolves No. 60, Sec. 3, as amended by 2018 Acts and Resolves No. 203, Sec. 1, is repealed.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee vote: 5-0-0)

S. 124.

An act relating to miscellaneous law enforcement amendments.

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:

* * * Vermont Criminal Justice Training Council * * *

Sec. 1. 20 V.S.A. § 2351 is amended to read:

§ 2351. CREATION AND PURPOSE OF COUNCIL

* * *

(b) The Council is created to encourage and assist municipalities, counties, and governmental agencies of this State in their efforts to improve the quality of law enforcement and citizen protection by maintaining a uniform standard of ~~recruitment~~ recruit and in-service training for law enforcement officers.

* * *

Sec. 2. 20 V.S.A. § 2352 is amended to read:

§ 2352. COUNCIL MEMBERSHIP

(a)(1) The Vermont Criminal Justice Training Council shall consist of:

(A) the Commissioners of Public Safety, ~~of Corrections,~~ of Motor Vehicles, ~~and~~ of Fish and Wildlife, and of Mental Health;

(B) the Attorney General;

(C) the Executive Director of the Department of State's Attorneys and Sheriffs;

(D) a member of the Vermont Troopers' Association or its successor entity, elected by its membership;

~~(D)~~(E) a member of the Vermont Police Association, elected by its membership; and

~~(E)~~(F) five additional members appointed by the Governor.

~~(i) The Governor's appointees shall provide broad representation of all aspects of law enforcement and the public in Vermont on the Council.~~

~~(ii) The Governor shall solicit recommendations for appointment from the Vermont State's Attorneys Association, the Vermont State's Sheriffs Association, the Vermont Police Chiefs Association, and the Vermont Constables Association a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;~~

~~(G) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;~~

~~(H) a law enforcement officer appointed by the President of the Vermont State Employees Association;~~

~~(I) an employee of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;~~

~~(J) an employee of the Vermont Center for Crime Victim Services, appointed by the Executive Director of the Center; and~~

~~(K) three public members who shall not be law enforcement officers or have a spouse, parent, child, or sibling who is a law enforcement officer, current legislators, or otherwise be employed in the criminal justice system, one of whom shall be appointed by the Speaker of the House, one of whom shall be appointed by the Senate Committee on Committees, and one of whom shall be appointed by the Governor.~~

(2) A member's term shall be three years.

* * *

~~(c) The public members of the Council set forth in subdivision (a)(1)(K) of this section shall be entitled to receive no per diem compensation for their services, but the other members of the Council shall not be entitled to such compensation; provided, however, that all members of the Council shall be allowed their actual and necessary entitled to receive reimbursement of expenses incurred in the performance of their duties. Per diem compensation and reimbursement of expenses under this subsection shall be made as permitted under 32 V.S.A. § 1010 from monies appropriated to the Council.~~

* * *

Sec. 3. TRANSITIONAL PROVISION TO ADDRESS NEW COUNCIL
MEMBERSHIP

Any existing member of the Vermont Criminal Justice Training Council who will serve on the Council under its new membership as set forth in Sec. 2 of this act may serve the remainder of his or her term in effect immediately prior to the effective date of Sec. 2.

Sec. 4. 20 V.S.A. § 2355 is amended to read:

§ 2355. COUNCIL POWERS AND DUTIES

(a) The Council shall adopt rules with respect to:

(1) the approval, or revocation thereof, of law enforcement officer training schools and off-site training programs, which shall include rules to identify and implement alternate routes to certification aside from the training provided at the Vermont Police Academy;

* * *

(b)(1) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council shall offer courses of instruction for law enforcement officers in different areas of the State and shall strive to offer nonovernight courses whenever possible.

(2) The Council may also offer the basic officer's course for ~~pre-service~~ preservice students and educational outreach courses for the public, including firearms safety and use of force.

* * *

Sec. 5. 20 V.S.A. § 2358 is amended to read:

§ 2358. MINIMUM TRAINING STANDARDS; DEFINITIONS

* * *

(b) The Council shall offer or approve basic training and annual in-service training for each of the following three levels of law enforcement officer certification in accordance with the scope of practice for each level, and shall determine by rule the scope of practice for each level in accordance with the provisions of this section:

(1) Level I certification.

* * *

(2) Level II certification.

* * *

(3) Level III certification.

* * *

(c)(1) All programs required by this section shall be approved by the Council.

(2) The Council shall structure its programs so that on and after July 1, 2021, a Level II certified officer may use portfolio experiential learning or College Level Examination Program (CLEP) testing in order to transition to Level III certification, without such an officer needing to restart the certification process.

(3) Completion of a program shall be established by a certificate to that effect signed by the Executive Director of the Council.

* * *

Sec. 6. COUNCIL; REPORT ON CHANGES IN TRAINING OPTIONS;
RULE ADOPTION DEADLINE

(a) Report. On or before January 15, 2021, the Executive Director of the Vermont Criminal Justice Training Council shall report to the Senate and House Committees on Government Operations regarding the Council's:

(1) plan to replace some of its overnight law enforcement training requirements at the Robert H. Wood, Jr. Criminal Justice and Fire Service Training Center of Vermont (the Police Academy) with nonovernight training in other areas of the State, in accordance with 20 V.S.A. § 2355(b)(1) in Sec. 4 of this act; and

(2) changes in the structure of its programs to enable a law enforcement officer to transition from Level II to Level III certification as required by 20 V.S.A. § 2358(c)(2) in Sec. 5 of this act.

(b) Rules. On or before July 1, 2021, the Council shall finally adopt the rules regarding alternate routes to certification required by 20 V.S.A. § 2355(a)(1) in Sec. 4 of this act, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

Sec. 7. 20 V.S.A. § 2361 is amended to read:

§ 2361. ADDITIONAL TRAINING

(a) ~~Nothing in this chapter prohibits any State law enforcement agency, department, or office or any municipality or county of the State from providing additional training beyond basic training to its personnel where no~~

certification is requested of or required by the Council or its Executive Director.

(b) ~~The head of a State agency, department, or office, a municipality's chief of police, or a sheriff~~ executive officer of a law enforcement agency may seek certification from the Council for any in-service training he or she, or his or her designee may provide to ~~his or her employees~~ law enforcement officers of his or her agency or of another agency, or both.

Sec. 8. 20 V.S.A. § 2362a is amended to read:

§ 2362a. POTENTIAL HIRING AGENCY; DUTY TO CONTACT
FORMER AGENCY

(a)(1) Prior to hiring a law enforcement officer ~~who is no longer employed at his or her last law enforcement agency~~, the executive officer of a potential hiring law enforcement agency shall:

(A) require that officer to execute a written waiver that explicitly authorizes the officer's:

(i) current law enforcement agency to disclose its analysis of the officer's performance at that agency, if the officer is still employed at that agency; or

(ii) last law enforcement agency employer to disclose the reason that officer is no longer employed by that agency, if the officer is not currently employed at an agency; and

(B) contact that former agency to determine that reason and provide to that agency a copy of that written waiver.

(2) An officer who refuses to execute the written waiver shall not be hired by the potential hiring agency.

(b)(1)(A) If that current or former agency is a law enforcement agency in this State, the executive officer of that current or former agency or designee shall disclose to the potential hiring agency in writing its analysis of the officer's performance at that agency or the reason the officer is no longer employed by the former agency, as applicable.

(B) The executive officer or designee shall send a copy of the disclosure to the officer at the same time he or she sends it to the potential hiring agency.

(2) Such a former agency shall be immune from liability for its disclosure described in subdivision (1) of this subsection, unless such disclosure would constitute intentional misrepresentation or gross negligence.

* * *

Sec. 9. LAW ENFORCEMENT AGENCY; DUTY TO DISCLOSE

The requirement of a current law enforcement agency to disclose its analysis of its law enforcement officer's performance at the agency as set forth in 20 V.S.A. § 2362a in Sec. 8 of this act shall not apply if there is a binding nondisclosure agreement prohibiting that disclosure that was executed prior to the effective date of that section.

Sec. 10. 20 V.S.A. chapter 151 (Vermont Criminal Justice Training Council), subchapter 2 is amended to read:

Subchapter 2. Unprofessional Conduct

§ 2401. DEFINITIONS

As used in this subchapter:

(1) "Category A conduct" means:

(A) A felony.

(B) A misdemeanor that is committed while on duty and did not involve the legitimate performance of duty.

(C) Any of the following misdemeanors, if committed off duty:

(i) simple assault, second offense;

(ii) domestic assault;

(iii) false reports and statements;

(iv) driving under the influence, second offense;

(v) violation of a relief from abuse order or of a condition of release;

(vi) stalking;

(vii) false pretenses;

(viii) voyeurism;

(ix) prostitution or soliciting prostitution;

(x) distribution of a regulated substance;

(xi) simple assault on a law enforcement officer; or

(xii) possession of a regulated substance, second offense.

(2) "Category B conduct" means gross professional misconduct amounting to actions on duty or under color of authority, or both, that involve

willful failure to comply with a State-required policy or substantial deviation from professional conduct as defined by the law enforcement agency's policy or if not defined by the agency's policy, then as defined by Council policy, ~~such as~~ and shall include:

- (A) sexual harassment involving physical contact or misuse of position;
- (B) misuse of official position for personal or economic gain;
- (C) excessive use of force under color of authority, ~~second~~ first offense;
- (D) biased enforcement; or
- (E) use of electronic criminal records database for personal, political, or economic gain.

* * *

§ 2403. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

(a)(1) The executive officer of a law enforcement agency or the chair of the agency's civilian review board shall report to the Council within 10 business days if any of the following occur in regard to a law enforcement officer of the agency:

(A) Category ~~(A)~~.

(i) There is a finding of probable cause by a court that the officer committed Category A conduct.

(ii) There is any decision or findings of fact or verdict regarding allegations that the officer committed Category A conduct, including a judicial decision and any appeal therefrom.

(B) Category B.

(i) The agency receives a complaint against the officer that, ~~if deemed credible by the executive officer of the agency as a result of a valid investigation,~~ alleges that the officer committed Category B conduct.

(ii) The agency receives or issues any of the following:

(I) a report or findings of a valid investigation finding that the officer committed Category B conduct; or

(II) any decision or findings, including findings of fact or verdict, regarding allegations that the officer committed Category B conduct, including a hearing officer decision, arbitration, administrative decision, or judicial decision, and any appeal therefrom.

(C) Termination. The agency terminates the officer for Category A or Category B conduct.

(D) Resignation. The officer resigns from the agency while under investigation for unprofessional conduct.

(2) As part of his or her report, the executive officer of the agency or the chair of the civilian review board shall provide to the Council a copy of any relevant documents associated with the report, including any findings, decision, and the agency's investigative report.

(b) The Executive Director of the Council shall report to the Attorney General and the State's Attorney of jurisdiction any allegations that an officer committed Category A conduct.

* * *

* * * Municipal Police Officer Recruitment and Retention * * *

Sec. 11. STATE TREASURER; RETIREMENT DIVISION; PROPOSED PLAN; POLICE OFFICERS COVERED UNDER VERMONT MUNICIPAL EMPLOYEES' RETIREMENT SYSTEM

(a) On or before January 15, 2021, the State Treasurer's Retirement Division shall submit to the Senate and House Committees on Government Operations a proposed plan to place municipal police officers covered under the Municipal Employees' Retirement System of Vermont (VMERS) on a new retirement plan substantially equivalent to the retirement plan that covers law enforcement officers under the Vermont State Retirement System (VSRS), except for the health and medical benefits available to officers under the VSRS.

(b) The Retirement Division's proposed plan shall include:

(1) recommendations on how to transition VMERS officers to the new retirement plan, including any specific timing recommendations;

(2) the costs associated with the new retirement plan; and

(3) concerns, if any, regarding the new retirement plan.

* * * Vermont Crime Information Center * * *

Sec. 12. 20 V.S.A. § 2053 is amended to read:

§ 2053. COOPERATION WITH OTHER AGENCIES

(a) The ~~center~~ Center shall cooperate with other ~~state~~ State departments and agencies, municipal police departments, sheriffs, and other law enforcement officers in this ~~state~~ State and with federal and international law

enforcement agencies to develop and carry on a uniform and complete state State, interstate, national, and international system of records of criminal activities commission of crimes and information.

(b)(1) All state State departments and agencies, municipal police departments, sheriffs, and other law enforcement officers shall cooperate with and assist the ~~center~~ Center in the establishment of a complete and uniform system of records relating to the commission of crimes, arrests, convictions, imprisonment, probation, parole, fingerprints, photographs, stolen property, and other matters relating to the identification and records of persons who have or who are alleged to have committed a crime, or who are missing persons, or who are fugitives from justice.

(2) In order to meet the requirements of subdivision (1) of this subsection, the Center shall establish and provide training on a uniform list of definitions to be used in entering data into a law enforcement agency's system of records, and every law enforcement officer shall use those definitions when entering data into his or her agency's system.

Sec. 13. 20 V.S.A. § 2055 is amended to read:

§ 2055. FILES

(a) The ~~director~~ Director of the Vermont ~~crime information center~~ Crime Information Center shall:

(1) disseminate on a quarterly basis to the legislative body of each town in the State without a police department a report describing the nature of crimes alleged to have been committed in that town in the preceding quarter, without providing any personally identifying information; and

(2) maintain and disseminate such files as are necessary relating to the commission of crimes, arrests, convictions, disposition of criminal causes, probation, parole, fugitives from justice, missing persons, fingerprints, photographs, stolen property, and such matters as the ~~commissioner~~ Commissioner deems relevant.

(b) The ~~director~~ Director shall maintain criminal records pursuant to this chapter regardless of whether the record is fingerprint supported. Any "no print, no record" rule or policy of the ~~center~~ Center shall be void.

* * * Law Enforcement Advisory Board * * *

Sec. 14. LEAB; REPEAL FOR RECODIFICATION

24 V.S.A. § 1939 (Law Enforcement Advisory Board) is repealed.

Sec. 15. 20 V.S.A. § 1818 is added to read:

§ 1818. LAW ENFORCEMENT ADVISORY BOARD

(a) The Law Enforcement Advisory Board is created within the Department of Public Safety to advise the Commissioner of Public Safety, the Governor, and the General Assembly on issues involving the cooperation and coordination of all agencies that exercise law enforcement responsibilities. The Board shall review any matter that affects more than one law enforcement agency. The Board shall comprise the following members:

- (1) the Commissioner of Public Safety;
- (2) the Director of the Vermont State Police;
- (3) the Director of the Enforcement Division of the Department of Fish and Wildlife;
- (4) the Director of the Vermont Criminal Justice Services Division;
- (5) a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;
- (6) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;
- (7) a representative of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;
- (8) a member of the Vermont Police Association, appointed by the President of the Association;
- (9) the Attorney General or designee;
- (10) a State's Attorney appointed by the Executive Director of the Department of State's Attorneys and Sheriffs;
- (11) the U.S. Attorney or designee;
- (12) the Executive Director of the Vermont Criminal Justice Training Council;
- (13) the Defender General or designee;
- (14) one representative of the Vermont Troopers' Association or its successor entity, elected by its membership;
- (15) a member of the Vermont Constables Association, appointed by the President of the Association; and
- (16) a law enforcement officer, appointed by the President of the Vermont State Employees Association.

(b) The Board shall elect a chair and a vice chair, which positions shall rotate among the various member representatives. Each member shall serve a term of two years. The Board shall meet at the call of the Chair. A quorum shall consist of nine members, and decisions of the Board shall require the approval of a majority of those members present and voting.

(c) The Board shall undertake an ongoing formal review process of law enforcement policies and practices with a goal of developing a comprehensive approach to providing the best services to Vermonters, given monies available. The Board shall also provide educational resources to Vermonters about public safety challenges in the State.

(d)(1) The Board shall meet not fewer than six times a year to develop policies and recommendations for law enforcement priority needs, including retirement benefits, recruitment of officers, training, homeland security issues, dispatching, and comprehensive drug enforcement.

(2) The Board shall present its findings and recommendations in brief summary form to the House and Senate Committees on Judiciary and on Government Operations annually on or before January 15.

Sec. 16. LEAB; RECODIFICATION DIRECTIVE

(a) 24 V.S.A. § 1939 is recodified as 20 V.S.A. § 1818. During statutory revision, the Office of Legislative Council shall revise accordingly any references to 24 V.S.A. § 1939 in the Vermont Statutes Annotated.

(b) Any references in session law and adopted rules to 24 V.S.A. § 1939 as previously codified shall be deemed to refer to 20 V.S.A. § 1818.

Sec. 17. LEAB; 2021 REPORT ON MUNICIPAL ACCESS TO LAW ENFORCEMENT SERVICES

As part of its annual report in the year 2021, the Law Enforcement Advisory Board shall specifically recommend ways that towns can increase access to law enforcement services.

* * * Department of Public Safety; Dispatch * * *

Sec. 18. 20 V.S.A. chapter 113 (Commissioner and Members), subchapter 1 is amended to read:

Subchapter 1. General Provisions

§ 1871. DEPARTMENT OF PUBLIC SAFETY; COMMISSIONER

(a) ~~The department of public safety~~ Department of Public Safety, created by 3 V.S.A. § 212, shall include a ~~commissioner of public safety~~ Commissioner of Public Safety.

(b) The head of the ~~department~~ Department shall be a ~~commissioner of public safety~~ the Commissioner of Public Safety, who shall be a citizen of the United States and shall be selected on the basis of training, experience and qualifications. The ~~commissioner~~ Commissioner shall be appointed by the ~~governor~~ Governor, with the advice and consent of the ~~senate~~, for a term of six years Senate.

* * *

(i)(1) The ~~commissioner of public safety~~ Commissioner of Public Safety may enter into contractual arrangements to perform dispatching functions for state State, municipal, or other emergency services, establishing charges sufficient to recover the costs of dispatching. Dispatch positions ~~which that~~ are fully funded under such contracts may be authorized under the provisions of 32 V.S.A. § 5(b). The Commissioner shall adopt rules that set forth the rates for dispatch functions performed under this subdivision (1).

(2) The Commissioner shall adopt rules regulating the technical and operational standards that shall apply to any entity performing dispatch functions in the State on and after July 1, 2021.

(j) Charges collected under subsections (e), (f), and (i) of this section shall be credited to the Vermont ~~law telecommunications special fund~~ Law Telecommunications Special Fund and shall be available to the ~~department~~ Department to offset the costs of providing the services.

* * *

§ 1873. ~~REMOVAL OF COMMISSIONER~~

~~During his or her term of office, the governor may remove the commissioner upon charges preferred in writing and after hearing, which shall be a public hearing if the commissioner requests the same, upon the following grounds:~~

~~(1) Incompetency amounting to failure to perform his or her official duties competently;~~

~~(2) Misconduct in office which shall be construed to include:~~

~~(a) failure to be of good behavior;~~

~~(b) participation, directly or indirectly, in a political campaign, rally, caucus or other political gathering, other than to vote. [Repealed.]~~

* * *

§ 1875. RADIO COMMUNICATION SYSTEM

(a) The ~~commissioner~~ Commissioner shall establish a communication system as will best enable the ~~department~~ Department to carry out the purposes of this chapter. This shall include a radio set furnished, on written request, to the sheriff and ~~state's attorney~~ State's Attorney of each county on a memorandum receipt.

(b)(1) The ~~commissioner~~ Commissioner may charge to all users of telecommunications services managed, maintained, or operated by the ~~department~~ Department for the benefit of the users a proportionate share of the actual cost of providing the services and products inclusive of administrative costs.

(2) Such charges shall be based on a pro rata allocation of the actual costs of services or products, determined in an equitable manner, which shall be representative of services provided to or system usage by individual units of government, including ~~state~~ State, local, and federal agencies or private nonprofit entities.

(3) Such charges shall be credited to the Vermont ~~communication system special fund~~ Law Telecommunications Special Fund and shall be available to the ~~department~~ Department to offset the costs of providing the services.

Sec. 19. DEPARTMENT OF PUBLIC SAFETY; DISPATCH RULES;
ADOPTION AND APPLICATION

The Department of Public Safety shall finally adopt the rules regarding dispatch rates and standards required by 20 V.S.A. § 1871(i)(1) and (2) set forth in Sec. 18 of this act so that those rules are in effect on or before July 1, 2021.

* * * Emergency Medical Services * * *

Sec. 20. 24 V.S.A. chapter 71 is amended to read:

CHAPTER 71. AMBULANCE SERVICES

Subchapter 1. Emergency Medical Services Districts

§ 2651. DEFINITIONS

As used in this chapter:

* * *

(14) ~~"State Board" means the State Board of Health. [Repealed.]~~

* * *

§ 2652. CREATION OF DISTRICTS

The ~~State Board~~ Department of Health may divide the State into emergency medical services districts, the number, size, and boundaries of which shall be determined by the ~~Board~~ Department in the interest of affording adequate and efficient emergency medical services throughout the State.

* * *

§ 2654. RECORDING DETERMINATION OF DISTRICTS

The ~~State Board~~ Department of Health shall cause to be recorded in the office of the Secretary of State a certificate containing its determination of emergency medical services districts.

* * *

§ 2656. DUTIES AND POWERS OF OFFICERS AND DIRECTORS

(a) The board of directors shall have full power to manage, control, and supervise the conduct of the district and to exercise in the name of the district all powers and functions belonging to the district, subject to such laws or ~~regulations~~ rules as may be applicable.

* * *

§ 2657. PURPOSES AND POWERS OF EMERGENCY MEDICAL SERVICES DISTRICTS

(a) It shall be the function of each emergency medical services district to foster and coordinate emergency medical services within the district, in the interest of affording adequate ambulance services within the district. Each emergency medical services district shall have powers ~~which~~ that include the power to:

* * *

(3) enter into agreements and contracts for furnishing technical, educational, and support services ~~and credentialing~~ related to the provision of emergency medical treatment;

* * *

(6) monitor the provision of emergency medical services within the district and make recommendations to the ~~State Board~~ Department of Health regarding licensure, relicensure, and removal or suspension of licensure for ambulance vehicles, ambulance services, and first responder services;

* * *

(10) assist the Department of Health in a program of testing for licensure of emergency medical services personnel; and

(11) ~~assure that each affiliated agency in the district has implemented a system for the credentialing of all its licensed emergency medical personnel; and [Repealed.]~~

(12) develop protocols for providing appropriate response times to requests for emergency medical services.

* * *

(b) Two or more contiguous emergency medical services districts by a majority vote of the district board in each of the districts concerned may change the mutual boundaries of their emergency medical services districts. The district boards shall report all changes in district boundaries to the ~~State Board~~ Department of Health.

* * *

Subchapter 2. Licensing Operation of ~~Ambulance Service~~ Affiliated Agencies

§ 2681. LICENSE REQUIRED; AMBULANCE LICENSE REQUIREMENT

(a) A person furnishing ambulance services or first responder services shall obtain a license to furnish services under this subchapter.

(b)(1) In order to obtain and maintain a license, an ambulance service shall be required to provide its services in a manner that does not discriminate on the basis of income, funding source, or severity of health needs, in order to ensure access to ambulance services within the licensee's service area.

(2) The Department of Health shall adopt rules in accordance with the provisions of subdivision (1) of this subsection.

§ 2682. ~~POWERS OF STATE BOARD~~ THE DEPARTMENT OF HEALTH

(a) ~~The State Board~~ Department of Health shall administer this subchapter and shall have power to:

(1) Issue licenses for ambulance services and first responder services under this subchapter.

(2) Revoke or suspend upon due notice and opportunity for hearing the license of any person who violates or fails to comply with any provision of this subchapter, or any rule or requirement adopted under its authority.

(3) Make, adopt, amend, and revise, as it deems necessary or expedient, reasonable rules in order to promote and protect the health, safety, and welfare of members of the public using, served by, or in need of emergency medical

treatment. Any rule may be repealed within 90 days of the date of its adoption by a majority vote of all the district boards. Such rules may cover or relate to:

(A) age, training, ~~credentialing~~, and physical requirements for emergency medical services personnel;

(B) design and equipping of ambulances;

(C) cooperation with hospitals and organizations in other related fields, and participation in central communications procedures; and

(D) any other matters properly within the purposes of this chapter.

(b) No fee or other payment shall be required of an applicant for a license.

§ 2683. TERM OF LICENSE

Full licenses shall be issued on forms to be prescribed by the ~~State Board~~ Department of Health for a period of ~~one year~~ three years beginning on January 1, or for the balance of any such year three-year period. Temporary, conditional, or provisional licenses may also be issued by the ~~Board~~ Department.

* * *

§ 2689. REIMBURSEMENT FOR AMBULANCE SERVICE PROVIDERS

(a)(1) When an ambulance service provides emergency medical treatment to a person who is insured by a health insurance policy, plan, or contract that provides benefits for emergency medical treatment, the health insurer shall reimburse the ambulance service directly, subject to the terms and conditions of the health insurance policy, plan, or contract.

(2) The Department of Financial Regulation shall enforce the provisions of this subsection.

(b) Nothing in this section shall be construed to interfere with coordination of benefits or to require a health insurer to provide coverage for services not otherwise covered under the insured's policy, plan, or contract.

(c) Nothing in this section shall preclude an insurer from negotiating with and subsequently entering into a contract with a nonparticipating ambulance service to establish rates of reimbursement for emergency medical treatment.

Sec. 21. 18 V.S.A. § 9405 is amended to read:

§ 9405. STATE HEALTH IMPROVEMENT PLAN; HEALTH RESOURCE ALLOCATION PLAN

* * *

(b) The Green Mountain Care Board, in consultation with the Secretary of Human Services or designee, shall publish on its website the Health Resource Allocation Plan identifying Vermont's critical health needs, goods, services, and resources, which shall be used to inform the Board's regulatory processes, cost containment and statewide quality of care efforts, health care payment and delivery system reform initiatives, and any allocation of health resources within the State. The Plan shall identify Vermont residents' needs for health care services, programs, and facilities; the resources available and the additional resources that would be required to realistically meet those needs and to make access to those services, programs, and facilities affordable for consumers; and the priorities for addressing those needs on a statewide basis. The Board may expand the Plan to include resources, needs, and priorities related to the social determinants of health. The Plan shall be revised periodically, but not less frequently than once every four years.

(1) In developing the Plan, the Board shall:

(A) consider the principles in section 9371 of this title, as well as the purposes enumerated in sections 9401 and 9431 of this title;

(B) identify priorities using information from:

(i) the State Health Improvement Plan;

(ii) emergency medical services resources and needs identified by the EMS Advisory Committee in accordance with subsection 909(f) of this title;

(iii) the community health needs assessments required by section 9405a of this title;

~~(iii)~~(iv) available health care workforce information;

~~(iv)~~(v) materials provided to the Board through its other regulatory processes, including hospital budget review, oversight of accountable care organizations, issuance and denial of certificates of need, and health insurance rate review; and

~~(v)~~(vi) the public input process set forth in this section;

(C) use existing data sources to identify and analyze the gaps between the supply of health resources and the health needs of Vermont residents and to identify utilization trends to determine areas of underutilization and overutilization; and

(D) consider the cost impacts of fulfilling any gaps between the supply of health resources and the health needs of Vermont residents.

* * *

Sec. 22. DEPARTMENT OF FINANCIAL REGULATION; REPORT ON
ENFORCEMENT OF HEALTH INSURER REIMBURSEMENTS
TO AMBULANCE SERVICES

On or before January 15, 2021, the Department of Financial Regulation shall report to the Senate Committees on Government Operations and on Health and Welfare and the House Committees on Government Operations and on Health Care regarding its enforcement of 24 V.S.A. § 2689(a) (health insurers' direct reimbursement to ambulance services) as set forth in Sec. 22 of this act.

Sec. 23. 18 V.S.A. chapter 17 is amended to read:

CHAPTER 17. EMERGENCY MEDICAL SERVICES

§ 901. POLICY

It is the policy of the State of Vermont that all persons who suffer sudden and unexpected illness or injury should have access to the emergency medical services system in order to prevent loss of life or the aggravation of the illness or injury, and to alleviate suffering.

(1) The system should include competent emergency medical ~~care~~ treatment provided by adequately trained, licensed, ~~credentialed~~, and equipped personnel acting under appropriate medical control.

(2) Persons involved in the delivery of emergency medical care should be encouraged to maintain and advance their levels of training and licensure, and to upgrade the quality of their vehicles and equipment.

* * *

§ 903. AUTHORIZATION FOR PROVISION OF EMERGENCY
MEDICAL SERVICES

Notwithstanding any other provision of law, including provisions of 26 V.S.A. chapter 23, persons who are licensed ~~and credentialed~~ to provide emergency medical ~~care~~ treatment pursuant to the requirements of this chapter and ~~implementing regulations~~ the rules adopted under it are hereby authorized to provide such care without further certification, registration, or licensing.

§ 904. ADMINISTRATIVE PROVISIONS

(a) In order to carry out the purposes and responsibilities of this chapter, the Department of Health may contract for the provision of specific services.

(b) The Secretary of Human Services, upon the recommendation of the Commissioner of Health, may ~~issue~~ adopt rules to carry out the purposes and responsibilities of this chapter.

* * *

§ 906. EMERGENCY MEDICAL SERVICES DIVISION;
RESPONSIBILITIES

To implement the policy of section 901 of this title chapter, the Department of Health shall be responsible for:

(1) Developing and implementing minimum standards for training emergency medical personnel in basic life support and advanced life support, and licensing emergency medical personnel according to their level of training and competence. The Department shall establish by rule at least three levels of emergency medical personnel instructors and the education required for each level.

(2) Developing and implementing minimum standards for vehicles used in providing emergency medical care, designating the types and quantities of equipment that must be carried by these vehicles, and registering those vehicles according to appropriate classifications.

(3) Developing a statewide system of emergency medical services, including planning, organizing, coordinating, improving, expanding, monitoring, and evaluating emergency medical services.

~~(4) Establishing by rule minimum standards for the credentialing of emergency medical personnel by their affiliated agency, which shall be required in addition to the licensing requirements of this chapter in order for a person to practice as an emergency medical provider. Credentialing shall consist of the minimum and appropriate requirements necessary to ensure that an emergency medical provider can demonstrate the competence and minimum skills necessary to practice within his or her scope of licensure. Any rule shall balance the need for documenting competency against the burden placed on rural or smaller volunteer squads with little or no administrative staff. [Repealed.]~~

* * *

(7) Assisting hospitals in the development of programs ~~which~~ that will improve the quality of in-hospital services for persons requiring emergency medical care treatment.

* * *

(9) Establishing requirements for the collection of data by emergency medical personnel and hospitals as may be necessary to evaluate emergency medical ~~care~~ treatment.

(10) Establishing, by rule, license levels for emergency medical personnel. The Commissioner shall use the guidelines established by the National Highway Traffic Safety Administration (NHTSA) in the U.S. Department of Transportation as a standard or other comparable standards, except that a felony conviction shall not necessarily disqualify an applicant. The rules shall also provide that:

* * *

(B) An individual licensed by the Commissioner as an emergency medical technician, advanced emergency medical technician, or a paramedic, ~~who is credentialed by an affiliated agency,~~ shall be able to practice fully within the scope of practice for such level of licensure as defined by NHTSA's National EMS Scope of Practice Model consistent with the license level of the affiliated agency, and subject to the medical direction of the emergency medical services district medical advisor.

(C)(i) Unless otherwise provided under this section, an individual seeking any level of licensure shall be required to pass an examination approved by the Commissioner for that level of licensure, except that any psychomotor skills testing for emergency medical responder, or emergency medical technician licensure shall be accomplished either by the demonstration of those skills competencies as part of the education required for that license level or by the National Registry of Emergency Medical Technicians' psychomotor examination.

(ii) Written and practical examinations shall not be required for relicensure; however, to maintain licensure, all individuals shall complete a specified number of hours of continuing education as established by rule by the Commissioner. The Commissioner shall ensure that continuing education classes are available online and provided on a regional basis to accommodate the needs of volunteers and part-time individuals, including those in rural areas of the State.

* * *

(E) An applicant who has served as a hospital corpsman or a medic in the U.S. Armed Forces, or who is licensed as a registered nurse or a physician assistant shall be granted a permanent waiver of the training requirements to become a licensed emergency medical technician, an advanced emergency medical technician, or a paramedic, provided the applicant passes

~~the any applicable examination approved by the Commissioner for that level of licensure and further provided that the applicant is credentialed by an affiliated agency.~~

(F) An applicant who is registered on the National Registry of Emergency Medical Technicians as an emergency medical technician, an advanced emergency medical technician, or a paramedic shall be granted licensure as a Vermont emergency medical technician, an advanced emergency medical technician, or a paramedic without the need for further testing, provided he or she is ~~credentialed by an affiliated agency or is serving as a medic with the Vermont National Guard.~~

(G) [Repealed.]

(11) In addition to the licenses established under subdivision (10) of this section, the Department shall establish by rule an entry-level certification for Vermont EMS first responders.

* * *

§ 906b. TRANSITIONAL PROVISION; CERTIFICATION TO LICENSURE

~~Every person certified as an emergency medical provider shall have his or her certification converted to the comparable level of licensure. Until such time as the Department of Health issues licenses in lieu of certificates, each certified emergency medical provider shall have the right to practice in accordance with his or her level of certification. [Repealed.]~~

* * *

§ 906d. RENEWAL REQUIREMENTS; SUNSET REVIEW

(a) Not less than once every five years, the Department shall review emergency medical personnel continuing education and other continuing competency requirements. The review results shall be in writing and address the following:

- (1) the renewal requirements of the profession;
- (2) the renewal requirements in other jurisdictions, particularly in the Northeast region;
- (3) the cost of the renewal requirements for emergency medical personnel; and
- (4) an analysis of the utility and effectiveness of the renewal requirements with respect to public protection.

(2) The Department shall amend its rules or propose any necessary statutory amendments to revise any emergency medical personnel continuing education and other continuing competency requirements that are not necessary for the protection of the public health, safety, or welfare.

* * *

§ 909. EMS ADVISORY COMMITTEE; EMS EDUCATION COUNCIL

(a) The Commissioner shall establish ~~an advisory committee~~ the Emergency Medical Services Advisory Committee to advise on matters relating to the delivery of emergency medical services (EMS) in Vermont.

(b) ~~The Emergency Medical Services Advisory Committee~~ shall include the following members:

* * *

(c) ~~Beginning Annually, on or before January 1, 2019,~~ the Committee shall report ~~annually on the emergency medical services~~ EMS system to the House Committees on Government Operations, on Commerce and Economic Development, and on Human Services and to the Senate Committees on Government Operations, on Economic Development, Housing and General Affairs, and on Health and Welfare. The Committee's reports shall include information on the following:

* * *

(5) funding mechanisms and funding gaps for EMS personnel and providers across the State, including for the funding of infrastructure, equipment, and operations and costs associated with initial and continuing training, and licensure, and credentialing of personnel;

(6) the nature and costs of dispatch services for EMS providers throughout the State, including the annual number of mutual aid calls to an emergency medical service area that come from outside that area, and suggestions for improvement;

* * *

(8) how the current system of preparing and licensing EMS personnel could be improved, including the role of Vermont Technical College's EMS program; whether the State should create an EMS academy; and how such an EMS academy should be structured; and

(9) how EMS instructor training and licensing could be improved; ~~and~~

~~(10) the impact of the State's credentialing requirements for EMS personnel on EMS providers.~~

(f) In addition to its report set forth in subsection (e) of this section, the Committee shall identify EMS resources and needs in each EMS district and provide that information to the Green Mountain Care Board to inform the Board's periodic revisions to the Health Resource Allocation Plan developed pursuant to subsection 9405(b) of this title.

(g) The Committee shall establish from among its members the EMS Education Council, which may:

(1) sponsor or approve training and education programs required for emergency medical personnel licensure in accordance with the Department of Health's required standards for that training and education;

(2) provide notice to the Department of Health of any training or education program that it approves; and

(3) provide advice to the Department of Health regarding the standards for emergency medical personnel licensure and any recommendations for changes to those standards.

Sec. 24. 18 V.S.A. § 906(10)(C)(i) is amended to read:

(C)(i) Unless otherwise provided under this section, an individual seeking any level of licensure shall be required to pass an examination approved by the Commissioner for that level of licensure, except that any psychomotor skills testing for emergency medical responder, or emergency medical technician licensure shall be accomplished ~~either~~ by the demonstration of those skills competencies as part of the education required for that license level ~~or by the National Registry of Emergency Medical Technicians' psychomotor examination.~~

Sec. 25. 32 V.S.A. § 8557 is amended to read:

§ 8557. VERMONT FIRE SERVICE TRAINING COUNCIL

(a)(1) Sums for the expenses of the operation of training facilities and curriculum of the Vermont Fire Service Training Council not to exceed \$1,200,000.00 per year shall be paid to the Fire Safety Special Fund created by 20 V.S.A. § 3157 by insurance companies, writing fire, homeowners multiple peril, allied lines, farm owners multiple peril, commercial multiple peril (fire and allied lines), private passenger and commercial auto, and inland marine policies on property and persons situated within the State of Vermont within 30 days after notice from the Commissioner of Financial Regulation of such

estimated expenses. Captive companies shall be excluded from the effect of this section.

* * *

(4) An amount not less than \$150,000.00 shall be specifically allocated to the Emergency Medical Services Special Fund established under 18 V.S.A. § 908 for the provision of training programs for certified Vermont EMS first responders and licensed emergency medical responders, emergency medical technicians, advanced emergency medical technicians, and paramedics.

* * *

Sec. 26. EMERGENCY MEDICAL PERSONNEL TRAINING; APPROPRIATION

(a) The sum of \$450,000.00 is appropriated from the Emergency Medical Services Fund and the sum of \$400,000.00 is appropriated from the General Fund to the Department of Health in fiscal year 2021 for purposes of emergency medical personnel training. The Department, in consultation with the Emergency Medical Services Advisory Committee, shall use the monies to provide funding for live and online training opportunities for emergency medical personnel and for other emergency medical personnel training-related purposes. The Department and the Advisory Committee shall prioritize training opportunities for volunteer emergency medical personnel.

(b) The Department of Health, in consultation with the Emergency Medical Services Advisory Committee, shall develop a plan:

(1) to ensure that training opportunities for emergency medical personnel are available statewide on an ongoing basis;

(2) to simplify the funding application and disbursement processes; and

(3) identifying opportunities to increase representation of the perspectives of volunteer emergency medical personnel in decisions affecting the emergency medical services system.

(c) On or before January 15, 2021, the Department of Health shall report to the House Committees on Health Care, on Appropriations, and on Government Operations and the Senate Committees on Health and Welfare, on Appropriations, and on Government Operations with an accounting of its use of the funds appropriated to the Department pursuant to subsection (a) of this section and a copy of the plan developed by the Department pursuant to subsection (b) of this section.

Sec. 27. TRANSITIONAL EMS PROVISIONS

(a) Rules. Except as otherwise provided in this act, on or before July 1, 2021, the Department of Health shall finally adopt or amend the rules required by this act, unless that deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

(b) Ambulance service licenses. The requirements for initial ambulance service licensure and renewal set forth in 24 V.S.A. § 2681(b) in Sec. 20 of this act shall apply to initial ambulance service license and renewal applicants on and after July 1, 2021 or on and after the effective date of the Department of Health rules adopted pursuant to that section and subsection (a) of this section, whichever date is later.

(c) Existing EMS Instructor/Coordinator licensees. Any person who is licensed as an EMS Instructor/Coordinator under the Department of Health's Emergency Medical Service Rules in effect immediately prior to the effective date of the rules establishing the new levels of instructor licenses as required by 18 V.S.A. § 906(1) in Sec. 23 of this act shall be deemed to be the highest license level.

(d) Development of Vermont EMS First Responder certification. The Department of Health shall consult with the EMS Advisory Committee, the University of Vermont's Initiative for Rural Emergency Medical Services, and any other relevant stakeholders in developing the new Vermont EMS First Responder certification required by 18 V.S.A. § 906(11) in Sec. 23 of this act so that certification is established on or before July 1, 2021.

(e) Sunset review of renewal requirements. Pursuant to 18 V.S.A. § 906d (renewal requirements; sunset review) set forth in Sec. 23 this act, the Department of Health shall conduct its first sunset review in conjunction with its rulemaking required by this act and thereafter propose any necessary statutory amendments in accordance with that section.

* * * Public Safety Planning * * *

Sec. 28. 20 V.S.A. § 6 is amended to read:

§ 6. LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT; TOWN AND CITY PUBLIC SAFETY PLANS

(a) Each town and city of this state State is hereby authorized and directed to establish a local organization for emergency management in accordance with the ~~state emergency management plan~~ State Emergency Management Plan and program.

(1)(A) Except in a town that has a town manager in accordance with ~~chapter 37 of Title 24 V.S.A. chapter 37~~, the executive officer or legislative branch of the town or city is authorized to appoint a town or city emergency management director who shall have direct responsibility for the organization, administration, and coordination of the local organization for emergency management, subject to the direction and control of the executive officer or legislative branch.

(B) If the town or city that has not adopted the town manager form of government and the executive officer or legislative branch of the town or city has not appointed an emergency management director, the executive officer or legislative branch shall be the town or city emergency management director.

(2) The town or city emergency management director may appoint an emergency management coordinator and other staff as necessary to accomplish the purposes of this chapter.

(b) Except as provided in subsection (d) of this section, each local organization for emergency management shall perform emergency management functions within the territorial limits of the town or city within which it is organized, and, in addition, shall conduct such functions outside of the territorial limits as may be required pursuant to the provisions of this chapter and in ~~accord~~ accordance with such regulations as the ~~governor~~ Governor may prescribe.

(c) Each local organization shall participate in the development of an all-hazards plan with the local emergency planning committee and the public safety district.

(d)(1) Each local organization shall annually notify the local emergency planning committee on forms provided by the ~~state emergency response commission~~ State Emergency Response Commission of its capacity to perform emergency functions in response to an all-hazards incident.

(2) Each local organization shall perform the emergency functions indicated on the most recently submitted form in response to an all-hazards incident.

(e) Each town and city legislative body shall adopt a public safety plan in accordance with this subsection that describes how the town or city will address the regular law enforcement, fire, emergency medical service, and dispatch resources, needs, scarcities, costs, and problems within the municipality unrelated to an all-hazards incident, which may include partnering with one or more other municipalities or entities to address those issues.

(1) Concurrently with its annual notification required under subsection (d) of this section, each local organization shall analyze the law enforcement, fire, emergency medical service, and dispatch resources, needs, scarcities, costs, and problems within the municipality and report that information to its legislative body.

(2) After receipt of that information, the legislative body:

(A) shall solicit and accept public comment on the current public safety plan;

(B) may consult with the municipal and regional planning commission, neighboring local organizations, and any other relevant law enforcement, fire, and emergency medical service entities in order to determine how those services may be provided and shared on a regional basis;

(C) shall propose any revisions to the current public safety plan that the legislative body deems necessary, and in that case, shall provide public notice of those proposed revisions and hold at least one public hearing on those proposed revisions not less than 30 days after the public notice of them; and

(D) shall finally adopt any revisions to the current public safety plan.

Sec. 29. TRANSITIONAL PROVISION; INITIAL PUBLIC SAFETY PLAN

Each town and city shall undertake the process to adopt a public safety plan as set forth in Sec. 28 of this act so that every town and city has adopted such a plan on or before July 1, 2023.

Sec. 30. AGENCY OF COMMERCE AND COMMUNITY DEVELOPMENT; REGIONAL PLANNING COMMISSIONS; PUBLIC SAFETY PLANNING GRANTS

(a) Appropriation. The sum of \$100,000.00 is appropriated to the Agency of Commerce and Community Development in fiscal year 2021 for three public safety planning grants described in subsection (b) of this section. The Agency shall award the grants in accordance with its procedure established under the Vermont Community Development Act.

(b) Public safety planning grants.

(1) Public safety planning grants are created for the purpose of fostering regional public safety planning.

(2) A regional organization, such as a regional planning commission, union municipal district, joint survey committee, or other qualified organization may apply to the Agency for a public safety planning grant for

the purpose of planning the integration, consolidation, or regionalization of public safety functions within the organization's jurisdiction. A grant shall be for a maximum of three years and shall not exceed \$35,000.00, and shall be provided to grantees in different geographic regions of the State.

(3) A grantee shall be required to report annually on or before January 15 to the Senate and House Committees on Government Operations and on Appropriations regarding its planning process and expected result. Each report shall specifically provide data on and analyze the potential costs and savings of regional consolidation of public safety functions.

(4) As used in this section:

(A)(i) "Planning" means hiring personnel or contracting for services to determine the feasibility of or to establish the procedure to implement, or both, the integration, consolidation, or regionalization of public safety functions.

(ii) "Planning" does not mean implementing such integration, consolidation, or regionalization.

(B) "Public safety functions" means fire, police, emergency medical services, and dispatching services.

* * * Effective Dates * * *

Sec. 31. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except that Sec. 24, 18 V.S.A. § 906(10)(C)(i) (EMS; psychomotor skills) shall take effect on July 1, 2021.

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

An act relating to governmental structures protecting the public health, safety, and welfare.

(Committee vote: 5-0-0)

S. 218.

An act relating to the Department of Mental Health's Ten-Year Plan.

Reported favorably with recommendation of amendment by Senator Westman 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:

Sec. 1. MENTAL HEALTH INTEGRATION COUNCIL; REPORT

(a) Creation. There is created the Mental Health Integration Council for the purpose of helping to ensure that all sectors of the health care system actively participate in the State's principles for mental health integration established pursuant to 18 V.S.A. § 7251(4) and (8) and as envisioned in the Department of Mental Health's 2020 report "Vision 2030: A 10-Year Plan for an Integrated and Holistic System of Care."

(b) Membership.

(1) The Council shall be composed of the following members:

(A) the Commissioner of Mental Health or designee;

(B) the Commissioner of Health or designee;

(C) the Commissioner of Vermont Health Access or designee;

(D) the Commissioner for Children and Families or designee;

(E) the Commissioner of Corrections or designee;

(F) the Commissioner of Financial Regulation or designee;

(G) the executive director of the Green Mountain Care Board or designee;

(H) the Secretary of Education or designee;

(I) a representative, appointed by the Vermont Medical Society;

(J) a representative, appointed by the Vermont Association for Hospitals and Health Systems;

(K) a representative, appointed by Vermont Care Partners;

(L) a representative, appointed by the Vermont Association of Mental Health and Addiction Recovery;

(M) a representative, appointed by Bi-State Primary Care;

(N) a representative, appointed by the University of Vermont Medical School;

(O) the chief executive officer of OneCare Vermont or designee;

(P) the Health Care Advocate established pursuant to 18 V.S.A. § 9602;

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

(R) a representative, appointed by the insurance plan with the largest number of covered lives in Vermont;

(S) two persons who have received mental health services in Vermont, appointed by Vermont Psychiatric Survivors, including one person who has delivered peer services;

(T) one family member of a person who has received mental health services, appointed by the Vermont chapter of National Alliance on Mental Illness; and

(U) one family member of a child who has received mental health services, appointed by the Vermont Federation of Families for Children's Mental Health.

(2) The Council may create subcommittees comprising the Council's members for the purpose of carrying out the Council's charge.

(c) Powers and duties. The Council shall address the integration of mental health in the health care system including:

(1) identifying obstacles to the full integration of mental health into a holistic health care system and identifying means of overcoming those barriers;

(2) helping to ensure the implementation of existing law to establish full integration within each member of the Council's area of expertise;

(3) establishing commitments from non-state entities to adopt practices and implementation tools that further integration;

(4) proposing legislation where current statute is either inadequate to achieve full integration or where it creates barriers to achieving the principles of integration; and

(5) fulfilling any other duties the Council deems necessary to achieve its objectives.

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

(e) Report.

(1) On or before December 15, 2021, the Commissioners of Mental Health and of Health shall report on the Council's progress to the Joint Health Reform Oversight Committee.

(2) On or before January 15, 2023, the Council shall submit a final written report to the House Committee on Health Care and to the Senate

Committee on Health and Welfare with its findings and any recommendations for legislative action, including a recommendation as to whether the term of the Council should be extended.

(f) Meetings.

(1) The Commissioner of Mental Health shall call the first meeting of the Council.

(2) The Commissioner of Mental Health shall serve as chair. The Commissioner of Health shall serve as vice chair.

(3) The Council shall meet bimonthly between July 1, 2020 and January 1, 2023.

(4) The Council shall cease to exist on July 30, 2023.

(g) Compensation and reimbursement. Members of the Council shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than eight meetings. These payments shall be made from monies appropriated to the Department of Mental Health.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee vote: 5-0-0)

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

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

First: In Sec. 1, subsection (b), by striking out subdivision (1) in its entirety and inserting in lieu thereof a new subdivision (1) to read as follows:

(1) The Council shall be composed of the following members:

(A) the Commissioner of Mental Health or designee;

(B) the Commissioner of Health or designee;

(C) the Commissioner of Vermont Health Access or designee;

(D) the Commissioner for Children and Families or designee;

(E) the Commissioner of Corrections or designee;

(F) the Commissioner of Financial Regulation or designee;

(G) the Director of Health Care Reform or designee;

(H) the Executive Director of the Green Mountain Care Board or designee;

(I) the Secretary of Education or designee;

(J) a representative, appointed by the Vermont Medical Society;

(K) a representative, appointed by the Vermont Association for Hospitals and Health Systems;

(L) a representative, appointed by Vermont Care Partners;

(M) a representative, appointed by the Vermont Association of Mental Health and Addiction Recovery;

(N) a representative, appointed by Bi-State Primary Care;

(O) a representative, appointed by the University of Vermont Medical School;

(P) the Chief Executive Officer of OneCare Vermont or designee;

(Q) the Health Care Advocate established pursuant to 18 V.S.A. § 9602;

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

(S) a representative, appointed by the insurance plan with the largest number of covered lives in Vermont;

(T) two persons who have received mental health services in Vermont, appointed by Vermont Psychiatric Survivors, including one person who has delivered peer services;

(U) one family member of a person who has received mental health services, appointed by the Vermont chapter of National Alliance on Mental Illness; and

(V) one family member of a child who has received mental health services, appointed by the Vermont Federation of Families for Children's Mental Health.

Second: In Sec. 1, subsection (f), subdivision (2), in the second sentence, by striking the word "Health" and inserting in lieu thereof the words Vermont Health Access

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

An act relating to establishing the Mental Health Integration Council.

(Committee vote: 5-1-1)

S. 224.

An act relating to evidence-based structured literacy instruction for students in kindergarten–grade 3 and students with dyslexia and to teacher preparation programs.

Reported favorably with recommendation of amendment by Senator Ingram 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:

* * * Postsecondary Educational Institutions; Closing * * *

Sec. 1. 16 V.S.A. § 175 is amended to read:

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS; CLOSING

(a)(1) The Association of Vermont Independent Colleges (AVIC) shall maintain a memorandum of understanding with each covered college, which are its member colleges and each college that was a member of AVIC within the prior year, under which each covered college agrees to:

(A) upon the request of AVIC, properly administer the student academic records of a covered college that fails to comply with the requirements of this subsection; and

(B) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another covered college or other entity selected by AVIC, maintaining the records of a covered college that fails to comply with the requirements of this subsection.

(2)(A) If an institution of higher education is placed on probation by its accrediting agency, the institution shall:

(i) not later than five business days after learning that it has been placed on probation, inform the Secretary of Education of its status, and

(ii) not later than 60 days after being placed on probation, submit an academic record plan for students to the Secretary for approval.

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

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

(3) 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)(A) promptly inform the ~~State Board~~ Secretary;

(2)(B) 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)(C) 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.

(b) Persons acting as a repository may microfilm records received under this section.

(c) Students and former students of the discontinuing institution shall be entitled to verified copies of their academic records upon payment of a reasonable fee.

(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.

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

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

~~(2) contribute on an equitable basis and in a manner determined in the sole discretion of AVIC to the costs of another AVIC member or other entity selected by AVIC maintaining the records of a member college that fails to comply with the requirements of subsection (a) of this section.~~

Sec. 2. TRANSITION

On or before August 1, 2020, the Association of Vermont Independent Colleges (AVIC) shall amend its memorandum of understanding with its member colleges under 16 V.S.A. § 175 to require that each member college that terminates its membership with AVIC continue to comply with the terms of the memorandum for a period of one year after the date of termination.

* * * Oath; Repeal * * *

Sec. 3. 16 V.S.A. § 12 is amended to read:

§ 12. OATH

~~A superintendent, a principal or teacher in a public school of the State, a professor, instructor, or teacher who will be employed by a university or college in the State that is supported in whole or in part by public funds, or a headmaster or teacher who will be employed by an independent school or other educational institution accepted by the Agency as furnishing equivalent education, before entering upon the discharge of his or her duties, shall subscribe to an oath or affirmation to support the U.S. Constitution, the Vermont Constitution, and all State and federal laws; provided, however, that an oath shall not be required of any person who is a citizen of a foreign country. [Repealed.]~~

* * * Small School Support * * *

Sec. 4. 16 V.S.A. § 4015 is amended to read:

§ 4015. SMALL SCHOOL SUPPORT

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

* * *

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

* * *

* * * School Wellness * * *

Sec. 5. 16 V.S.A. § 136 is amended to read:

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

(a) As used in this section:

* * *

(5) "Wellness program" means a program that includes comprehensive health education as defined in section 131 of this title, fitness, and nutrition.

(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 with expertise in health services, health education, or health policy 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, and shall meet not less than twice a year.~~

(c) The Secretary shall collaborate with other agencies and councils working on childhood wellness to:

(1) Supervise the preparation of appropriate ~~nutrition and fitness wellness program~~ curricula for use in the public schools, promote programs for the preparation of teachers to teach these curricula, and assist in the development of wellness programs.

* * *

~~(5) Create a process for schools to share with the Department of Health any data collected about the height and weight of students in kindergarten through grade six. The Commissioner of Health may report any data compiled under this subdivision on a countywide basis. Any reporting of data must protect the privacy of individual students and the identity of participating schools.~~

* * *

Sec. 6. SCHOOL WELLNESS POLICY

On or before January 15, 2021, the Agency of Education, in collaboration with the Advisory Council on Wellness and Comprehensive Health created under 16 V.S.A. § 136, shall update and distribute to school districts a model wellness program policy, using the expanded definition of “wellness program” under 16 V.S.A. § 136, as amended by this act, that shall:

(1) be in compliance with all relevant State and federal laws; and

(2) reflect nationally accepted best practices for comprehensive health education and school wellness policies, such as guidance from the Centers for Disease Control and Prevention’s Whole School, Whole Community, Whole Child Model.

* * * Electoral Functions; Unified Union School District * * *

Sec. 7. ELECTIONS; UNIFIED UNION SCHOOL DISTRICT

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

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

(c) This section is repealed on July 1, 2021.

Sec. 8. ELECTORAL FUNCTIONS; UNION SCHOOL DISTRICT; MEMBER DISTRICT THAT IS ALSO A UNION SCHOOL DISTRICT

(a) If a union elementary or union high school district has a member district that is also a union school district, then the legislative body or appropriate officer of each city, town, or incorporated village within the member union school district shall perform electoral functions on behalf of the union elementary or union high school district, including accepting

nominations, warning meetings, and conducting elections and the voting process on other matters, when those functions are ordinarily performed by and in member town districts on behalf of a union school district.

(b) This section is repealed on July 1, 2021.

* * * Menstrual Hygiene Products * * *

Sec. 9. 16 V.S.A. § 1432 is added to read:

§ 1432. MENSTRUAL HYGIENE PRODUCTS

(a) By enacting this statute, the General Assembly intends to ensure that a female student attending a public school or an approved independent school has access to menstrual hygiene products at no cost and without the embarrassment of having to request them.

(b) A school district and an approved independent school shall make menstrual hygiene products available at no cost in a majority of gender-neutral bathrooms and bathrooms designated for females that are generally used by females in any of grades five through 12 in each school within the district or under the jurisdiction of the board of the independent school. The school district or independent school, in consultation with the school nurse who provides services to the school, shall determine which of the gender-neutral bathrooms and bathrooms designated for females to stock with menstrual hygiene products and which brands to use.

(c) School districts and approved independent schools shall bear the cost of supplying menstrual hygiene products and may seek grants or partner with a nonprofit or community-based organization to fulfill this obligation.

* * * Special Education; Technical Changes * * *

Sec. 10. 16 V.S.A. § 2961 is amended to read:

§ 2961. CENSUS GRANT

(a) As used in this section:

* * *

(3) “Long-term membership” of a supervisory union in any school year means the average of the supervisory union’s average daily membership over the most recent three school years for which data are available.

(4) “Uniform base amount” means an amount determined by:

(A) dividing an amount:

(i) equal to the average State appropriation for fiscal years 2018, 2019, and 2020 for special education under sections 2961 (standard

mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; and

(ii) increased by the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis; by

(B) ~~the statewide average daily membership for prekindergarten through grade 12 for the 2019–2020 school year~~ long-term membership.

* * *

(d)(1)(A) For fiscal year ~~2021~~ 2022, the amount of the census grant for a supervisory union shall be:

(i) the average amount it received for fiscal years 2017, 2018, and 2019 from the State for special education under sections 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; increased by

(ii) the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

(B) The amount determined under subdivision (A) of this subdivision (1) shall be divided by the supervisory union's long-term membership, to determine the base amount of the census grant, which is the amount of the census grant calculated on a per student basis.

(2) For fiscal year ~~2025~~ 2026 and subsequent fiscal years, the amount of the census grant for a supervisory union shall be the uniform base amount multiplied by the supervisory union's long-term membership.

(3) For fiscal years ~~2022, 2023, and 2024~~ 2023, 2024, and 2025, the amount of the census grant for a supervisory union shall be determined by multiplying the supervisory union's long-term membership by a base amount established under this subdivision. The base amounts for each supervisory union for fiscal years ~~2022, 2023, and 2024~~ 2023, 2024, and 2025 shall move gradually the supervisory union's fiscal year ~~2021~~ 2022 base amount to the fiscal year ~~2025~~ 2026 uniform base amount by prorating the change between the supervisory union's fiscal year ~~2021~~ 2022 base amount and the fiscal year ~~2025~~ 2026 uniform base amount over this three-fiscal-year period.

Sec. 11. 16 V.S.A. § 2967 is amended to read:

§ 2967. AID PROJECTION

(a) On or before December 15, the Secretary shall publish an estimate, by each supervisory union, of its anticipated State special education expenditures funding under this chapter for the ensuing school year.

(b) As used in this section, State special education expenditures funding shall include:

(1) ~~costs~~ funds eligible for grants and reimbursements under sections 2961 and 2962 of this title;

(2) ~~costs~~ funds for services for persons who are visually impaired;

(3) ~~costs~~ funds for persons who are deaf or hard of hearing;

(4) ~~costs~~ funds for the interdisciplinary team program;

(5) funds expended for training and programs to meet the needs of students with emotional or behavioral challenges under subsection 2969(c) of this title; and

(6) funds expended for training under subsection 2969(d) of this title.

Sec. 12. 16 V.S.A. § 2975 is amended to read:

§ 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL ASSISTANCE

~~The Secretary may use up to two percent of the funds appropriated for allowable special education expenditures, as that term is defined in State Board of Education rules, to directly assist supervisory unions with special education expenditures of an unusual or unexpected nature~~ funds for allowable special education expenditures, as defined in State Board of Education rules, to directly assist supervisory unions with special education expenditures of an unusual or unexpected nature. These funds shall be appropriated in the amount of two percent times the Census Grant as defined in section 2961 of this title. The Secretary's decision regarding a supervisory union's eligibility for and amount of assistance shall be final.

Sec. 13. 2018 Acts and Resolves No. 173, Sec. 17 is amended to read:

Sec. 17. TRANSITION

(a) Notwithstanding the requirement under 16 V.S.A. § 2964 for a supervisory union to submit a service plan to the Secretary of Education, a supervisory union shall not be required to submit a service plan for fiscal year 2021 2022.

(b) On or before November 1, ~~2019~~ 2020, a supervisory union shall submit to the Secretary such information as required:

(1) by the Secretary to estimate the supervisory union's projected fiscal year ~~2021~~ 2022 extraordinary special education reimbursement under Sec. 5 of this act; and

(2) for IDEA reporting in a format specified by the Secretary.

(c) The Agency of Education shall assist supervisory unions as they transition to the census-based funding model in satisfying their maintenance of effort requirements under federal law.

Sec. 14. 2018 Acts and Resolves No. 173, Sec. 18 is amended to read:

Sec. 18. TRANSITION FOR ALLOWABLE SPECIAL EDUCATION
COSTS

* * *

(b) This section is repealed on July 1, ~~2020~~ 2021.

* * * Gender Balance; UVM and VSC Boards * * *

Sec. 15. GENDER BALANCE; UNIVERSITY OF VERMONT AND
VERMONT STATE COLLEGES BOARDS

(a) The Board of Trustees of the University of Vermont (UVM) currently is composed of an overwhelming majority of men, with 20 men and five women. The Board of Trustees of the Vermont State Colleges (VSC) currently has gender balance on its Board.

(b) The State goal is to have the UVM Board achieve gender balance by 2025 and maintain it thereafter and the VSC Board maintain gender balance. Gender balance means, for the UVM Board, that the 25 member Board is composed of 12 or 13 members who identify as women and for the VSC Board, that the 15 member Board is composed of seven or eight members who identify as women. The UVM self-perpetuating Board members have an obligation to address the Board's gender imbalance in their appointment of trustees.

(c) Given that the UVM and VSC Boards have four categories of trustees, which include those appointed by the Governor, those appointed by the General Assembly, and those appointed by the self-perpetuating trustees, as well as student trustees, it is also incumbent on the Legislative and Executive Branches to undertake efforts to further the State goal in achieving and maintaining gender balance on these Boards.

(d) On or before January 31, 2021 and annually thereafter, as part of their annual budget presentations to the General Assembly, UVM and VSC shall provide, at a minimum, the most recent five years of information on the gender composition of their respective Boards of Trustees. This information shall include the appointing entity, initial appointment date, and length of service and shall summarize recruitment and replacement strategies employed for recently expired and imminently expiring Trustee positions.

* * * Proficiency-based Education; Appropriation * * *

Sec. 16. PROFICIENCY BASED EDUCATION; APPROPRIATION

(a) To support school districts in the implementation of proficiency-based education, the Agency of Education provides funding for projects that focus on school and systems-based proficiency efforts that are designed to:

(1) develop consistent frameworks, particularly for grading and reporting but also for instructional practices and coordinated curricula; and

(2) ensure all students graduate career and college ready.

(b) The sum of \$400,000.00 is appropriated to the Agency of Education from the Education Fund for fiscal year 2021 to support school districts that have faced challenges in the implementation of proficiency-based education, particularly with respect to grading and reporting.

* * * Effective Dates * * *

Sec. 17. EFFECTIVE DATES

This act shall take effect on passage, except that Secs. 10–12 shall take effect on July 1, 2021, and school districts and approved independent schools shall comply with the requirements of Sec. 9 of this act for the 2021–2022 school year and thereafter.

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

An act relating to making miscellaneous changes to education laws.

(Committee vote: 6-0-0)

S. 227.

An act relating to the provision of personal care products by lodging establishments.

Reported favorably with recommendation of amendment by Senator Bray for the Committee on Natural Resources and Energy.

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

* * * Single-use Products * * *

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

Subchapter 5. Single-Use Carryout Bags; Expanded Polystyrene Food Service Products; Single-use Plastic Straws; and Single-use Plastic Stirrers Products

§ 6691. DEFINITIONS

As used in this subchapter:

(1) “Agency” means the Agency of Natural Resources.

* * *

(6) “Plastic” means a synthetic material made from linking monomers through a chemical reaction to create a polymer chain that can be molded or extruded at high heat into various solid forms that retain their defined shapes during their life cycle and after disposal, including material derived from either petroleum or a biologically based polymer, such as corn or other plant sources. “Plastic” includes all materials identified with resin identification codes 1 to 7.

(7) “Point of sale” means a check-out stand, cash register, or other point of departure from a store or food service establishment, including the location where remotely ordered food or products are delivered to a purchaser.

* * *

(10) “Secretary” means the Secretary of Natural Resources.

* * *

(14) “Single-use product” or “single use” means a product that is generally recognized by the public as an item to be discarded after one use.

* * *

(16) “Lodging establishment” has the same meaning as in 18 V.S.A. § 4301.

(17) “Personal care product” means a product intended to be applied to or used on the human body in the shower or bath or on any part of the human body, including shampoo, hair conditioner, moisturizer, toothpaste, and bath soap.

(18) “Small container” means a container made of glass, plastic, or other material with less than six-ounce capacity that is intended to be nonreusable by the end user.

* * *

§ 6701. PERSONAL CARE PRODUCTS; SMALL CONTAINER;
LODGING ESTABLISHMENTS

(a) The purpose of this section is to encourage lodging establishments to use bulk dispensers of personal care products to reduce waste and lower operating costs while still providing products for the health and safety of guests.

(b) A lodging establishment shall not provide a personal care product in a small container in a sleeping room accommodation, in a space within the sleeping room accommodation, or within a bathroom used by the public or guests beginning on:

(1) January 1, 2023, for a lodging establishment with more than 50 rooms; and

(2) January 1, 2024, for a lodging establishment with 50 rooms or fewer.

(c) A lodging establishment may provide a personal care product in a small container to a person at no cost, upon request, at a place other than a sleeping room accommodation, a space within the sleeping room accommodation, or within a bathroom used by the public or guests.

(d) A lodging establishment that violates the requirements of this section shall be subject to a civil penalty of not more than \$300.00. Upon a second or subsequent violation, the lodging establishment shall be subject to a civil penalty of not more than \$500.00. A violation of this section shall be enforceable in the Judicial Bureau pursuant to the provisions of 4 V.S.A. chapter 29 in an action that may be brought by the Department of Health or the Agency of Natural Resources.

(e) Beginning on July 1, 2023, the requirements of this section preempt and supersede municipal bylaws regulating personal care products. A violation of this subsection is enforceable in the same manner as preemption under section 6699 of this title.

Sec. 2. 4 V.S.A. § 1102 is amended to read:

§ 1102. JUDICIAL BUREAU; JURISDICTION

(a) The Judicial Bureau is created within the Judicial Branch under the supervision of the Supreme Court.

(b) The Judicial Bureau shall have jurisdiction of the following matters:

* * *

(6) Violations of 24 V.S.A. § 2201, relating to littering, burning of solid waste, and illegal dumping.

* * *

(30) Violations of 10 V.S.A. § 6701, relating to the provision by lodging establishments of personal use products in small plastic bottles.

(c) The Judicial Bureau shall not have jurisdiction over municipal parking violations.

(d) Three hearing officers appointed by the Court Administrator shall determine waiver penalties to be imposed for violations within the Judicial Bureau's jurisdiction, except municipalities shall adopt full and waiver penalties for civil ordinance violations pursuant to 24 V.S.A. § 1979. For purposes of municipal violations, the issuing law enforcement officer shall indicate the appropriate full and waiver penalty on the complaint.

* * * Extended Producer Responsibility Report * * *

Sec. 3. REPORT ON EXTENDED PRODUCER RESPONSIBILITY FOR PACKAGING AND PRINTED MATERIALS

(a) The Office of Legislative Council, after consultation with the Chair of the Senate Committee on Natural Resources and Energy, the Chair of the House Committee on Natural Resources and Energy, the Solid Waste Division of the Department of Environmental Conservation, solid waste management entities, representatives of businesses, and other interested parties, shall draft legislation that would establish requirements under statute for an extended producer responsibility program in the State for packaging and printed material. The draft legislation shall consider inclusion of the following:

(1) A definition of packaging to include, at a minimum, material used to market, contain, wrap, protect, and deliver consumer goods, including food and beverages, personal care products, general consumer goods, and food service ware.

(2) A definition of printed material to include at a minimum newsprint and inserts, magazines and catalogues, direct mail, office paper, and telephone directories.

(3) A definition of a producer of a product that clearly identifies the manufacturer ultimately financially responsible for collection and recycling or disposal of packaging and printed material.

(4) Exemptions for small producers and for product packaging that is already covered under the Vermont beverage container redemption law and Vermont's other extended producer responsibility statutes.

(5) A definition of covered entities that includes at a minimum all generators of printed material and packaging in the State.

(6) Provisions for the establishment of a nonprofit stewardship organization or organizations of producers of packaging and printed material and how to set, collect, and track fees for producers based on what they sell into the State and how the fees will be used to support the State's recycling programs including payment of:

(A) 100 percent of the cost of collection, transport, and recycling of packaging and printed material that is readily recyclable and sold into the State;

(B) the costs of waste reduction and recycling education; and

(C) the cost of recycling infrastructure.

(7) A requirement that fees established by a stewardship organization encourage packaging design that reduces its environmental impact by assessing higher fees for packaging and printed material sold into the State that are more harmful to the environment and lower fees for those that cause less environmental harm. The environmental considerations that the Secretary may address include recyclability of a product, recycled content in a product, greenhouse gas emissions from production of a product, and the toxicity of a product.

(8) Provisions of a stewardship plan to be submitted by a stewardship organization describing how producers will provide for the collection, transportation, and recycling of packaging and printed material using existing infrastructure.

(9) Requirements for a stewardship organization to submit data obtained from producers to the State including data regarding the amount of packaging and printed material sold into the State, recovery rates of recyclables, fees collected, and the entire cost of the program so that:

(A) there is transparency and accountability in assessing the success of the program;

(B) there is consistency with internationally accepted standards; and

(C) there is sufficient information to evaluate the effectiveness of the program.

(10) Performance goals to be set at or above existing recycling recovery rates, with penalties if the goals are not met.

(11) Convenience provisions that at a minimum meet the convenience requirements of 2012 Acts and Resolves No. 148.

(12) A recommended goal for the percentage reduction in the amount of waste generated State-wide from single-use products. The recommendation shall be based on review of similar percentage reduction goals in other states, such as the California goal of reducing the amount of waste generated from single-use products by 75 percent by 2030.

(13) A recommended goal for the percentage of post-consumer recycled content in packaging, including recommendations for the reduction of plastic packaging. The recommendation shall be based on similar percentage goals for post-consumer content in other states, such as the Washington state goal of reducing plastic packaging 20 percent by 2025.

(14) Roles and responsibilities of the Agency of Natural Resources.

(15) A method by which producers can protect themselves against producers that fail to register with a program. These methods may include a private right of action, requirements that online retailers of packaging be responsible for paying into a fund in support of the program if the products they sell are from producers who are not part of the stewardship program, or other methods to ensure fairness and full compliance.

(16) A recommended method for coordinating among other northeastern states an extended producer responsibility program or other provisions for the management and disposition of packaging and printed material.

(b) The draft legislation required under subsection (a) of this section shall not include proposed changes to the beverage container redemption law under 10 V.S.A. chapter 53.

(c) On or before January 15, 2021, the Office of Legislative Council shall submit the draft legislation required by this section to the Senate Committee on Natural Resources and Energy and the House Committee on Natural Resources, Fish, and Wildlife.

* * * Beverage Container Redemption * * *

Sec. 4. 10 V.S.A. § 1522 is amended to read:

§ 1522. BEVERAGE CONTAINERS; DEPOSIT

(a) Except with respect to beverage containers that contain liquor, a deposit of not less than five cents shall be paid by the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. With respect to beverage containers of volume greater than 50 ml. that contain liquor, a deposit of 15 cents shall be paid by

the consumer on each beverage container sold at the retail level and refunded to the consumer upon return of the empty beverage container. The difference between liquor bottle deposits collected and refunds made is hereby retained by the Liquor Control Enterprise Fund for administration of this subsection.

(b) A retailer or a person operating a redemption center who redeems beverage containers shall be reimbursed by the manufacturer or distributor of such the beverage containers in an amount that is three and one-half cents per container for containers of beverage brands that are part of a commingling program and ~~four~~ five cents per container for containers of beverage brands that are not part of a commingling program.

* * *

Sec. 5. Subsection 10-109(b) of the Agency of Natural Resources' Environmental Protection Regulations for the Deposit for Beverage Containers is amended to read:

(b) Any commingling agreement shall contain, at a minimum, the following criteria:

(1) The agreement shall include pick up of commingled beverage containers from:

(A) at least 30 percent of the beverage containers redeemed in the ~~state~~ State of Vermont; or

(B) as otherwise approved by the Secretary.

* * * Product Stewardship Primary Batteries * * *

Sec. 6. 10 V.S.A. § 7581(10) is amended to read:

(10) "Primary battery" means a nonrechargeable battery weighing two kilograms or less, including alkaline, carbon-zinc, and lithium metal batteries. "Primary battery" shall not mean:

(A) ~~a battery intended for industrial, business-to-business, warranty or maintenance services, or nonpersonal use;~~

~~(B)~~ a battery that is sold in a computer, computer monitor, computer peripheral, printer, television, or device containing a cathode ray tube;

~~(C)~~ a battery that is not easily removable or is not intended to be removed from a consumer product; and

~~(D)~~ a battery that is sold or used in a medical device, as that term is defined in the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 321(h),

as may be amended, provided that the medical device is not designed and marketed for sale or resale principally to consumers for personal use.

Sec. 7. 10 V.S.A. § 7584 is amended to read:

§ 7584. PRIMARY BATTERY STEWARDSHIP PLAN

(a) Primary battery stewardship plan required. On or before June 1, 2015, each producer selling, offering for sale, distributing, or offering for promotional purposes a primary battery in the State shall individually or as part of a primary battery stewardship organization submit a primary battery stewardship plan to the Secretary for review.

(b) Primary battery stewardship plan; minimum requirements. Each primary battery stewardship plan shall include, at a minimum, all of the following elements:

* * *

(6) Education and outreach.

(A) A primary battery stewardship plan shall include an education and outreach program. The education and outreach program may include mass media advertising in radio or television broadcasts or newspaper publications of general circulation in the State, retail displays, articles in trade and other journals and publications, and other public educational efforts. The education and outreach program shall describe the outreach procedures that will be used to provide notice of the program to businesses, municipalities, certified solid waste management facilities, retailers, wholesalers, and haulers. At a minimum, the education and outreach program shall notify the public of the following:

(A)(i) that there is a free collection program for all primary batteries; and

(B)(ii) the location of collection points and how to access the collection program.

(B) In the event that a producer or primary battery stewardship organization does not meet the annual collection rate performance goal established under subdivision (8) of this subsection, the Secretary may require the producer or battery stewardship organization to conduct more outreach, provide additional educational materials, or improve collection accessibility.

* * *

(8) Performance goal; collection rate. A primary battery stewardship plan shall include a collection rate performance goal for the primary batteries

subject to the plan. The collection rate includes the estimated total weight of primary batteries that will be sold or offered for sale in the State by the producer or the producers participating in the primary battery stewardship plan.

* * *

Sec. 8. 10 V.S.A. § 6621a(a) is amended to read:

(a) In accordance with the following schedule, no person shall knowingly dispose of the following materials in solid waste or in landfills:

(1) ~~Lead-acid batteries~~ Batteries, after July 1, ~~1990~~ 2020.

* * *

* * * Effective Date * * *

Sec. 9. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee vote: 5-0-0)

S. 232.

An act relating to implementing the expansion of juvenile jurisdiction.

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

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

Sec. 1. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROJECT

(a) The Attorney General shall develop and administer an adult court diversion program in all counties. In consultation with diversion programs, the Attorney General shall adopt a policies and procedures manual in compliance with this section.

(b) The program shall be designed for two purposes:

(1) To assist adults who have been charged with a first or a second misdemeanor or a first nonviolent felony.

(2) To assist ~~adults with~~ persons who have been charged with an offense and who have substance abuse or mental health treatment needs regardless of the person's prior criminal history record, except a person charged with a felony offense that is a crime listed in 13 V.S.A. § 5301(7) shall not be eligible

under this section. Persons who have attained 18 years of age who are subject to a petition in the Family Division pursuant to 33 V.S.A. chapters 52 or 52A shall also be eligible under this section. Programming for these persons is intended to support access to appropriate treatment or other resources with the aim of improving the person's health and reducing future adverse involvement in the justice system. ~~A person charged with a felony offense that is a listed crime pursuant to 13 V.S.A. § 5301 shall not be eligible under this section.~~

* * *

Sec. 2. 33 V.S.A. § 5103 is amended to read:

§ 5103. JURISDICTION

(a) The Family Division of the Superior Court shall have exclusive jurisdiction over all proceedings concerning a child who is or who is alleged to be a delinquent child or a child in need of care or supervision brought under the authority of the juvenile judicial proceedings chapters, except as otherwise provided in such chapters.

(b) Orders issued under the authority of the juvenile judicial proceedings chapters shall take precedence over orders in other Family Division proceedings and any order of another court of this State, to the extent they are inconsistent. This section shall not apply to child support orders in a divorce, parentage, or relief from abuse proceedings until a child support order has been issued in the juvenile proceeding.

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child's 18th birthday.

(2)(A) Jurisdiction over a child with a pending delinquency may be extended until six months beyond the child's:

(i) 19th birthday if the child was 16 or 17 years of age when he or she committed the offense; or

(ii) 20th birthday if the child was 18 years of age when he or she committed the offense.

(B) ~~In no case shall~~ Except for custody of individuals 18 years of age or older that may be ordered by the court under the authority of chapter 52 of this title, custody of a child or youth 18 years of age or older shall not be retained by or transferred to the Commissioner for Children and Families.

(C) Jurisdiction over a child in need of care or supervision shall not be extended beyond the child's 18th birthday.

(D) Jurisdiction over a youthful offender shall not extend beyond the youth's 22nd birthday.

(d) The court may terminate its jurisdiction over a child prior to the child's 18th birthday by order of the court. If the child is not subject to another juvenile proceeding, jurisdiction shall terminate automatically in the following circumstances:

(1) upon the discharge of a child from juvenile or youthful offender probation, ~~providing~~ provided the child is not in the legal custody of the Commissioner;

(2) upon an order of the court transferring legal custody to a parent, guardian, or custodian without conditions or protective supervision;

(3) upon the adoption of a child following a termination of parental rights proceeding.

Sec. 3. 33 V.S.A. § 5103(c) is amended to read:

(c)(1) Except as otherwise provided by this title and by subdivision (2) of this subsection, jurisdiction over a child shall not be extended beyond the child's 18th birthday.

(2)(A) Jurisdiction over a child with a pending delinquency may be extended until six months beyond the child's:

(i) 19th birthday if the child was 16 or 17 years of age when he or she committed the offense; ~~or~~

(ii) 20th birthday if the child was 18 years of age when he or she committed the offense; or

(iii) 21st birthday if the child was 19 years of age when he or she committed the offense.

* * *

Sec. 4. 33 V.S.A. § 5102 is amended to read:

§ 5102. DEFINITIONS AND PROVISIONS OF GENERAL APPLICATION

As used in the juvenile judicial proceedings chapters:

* * *

(2) "Child" means any of the following:

(A) an individual who is under 18 years of age and is a child in need of care or supervision as defined in subdivision (3)(A), (B), or (D) of this section (abandoned, abused, without proper parental care, or truant);

(B)(i) an individual who is under 18 years of age, is a child in need of care or supervision as defined in subdivision (3)(C) of this section (beyond parental control), and was under 16 years of age at the time the petition was filed; or

(ii) an individual who is between 16 and 17.5 years of age, is a child in need of care or supervision as defined in subdivision (3)(C) of this section (beyond parental control), and who is at high risk of serious harm to himself or herself or others due to problems such as substance abuse, prostitution, or homelessness.

(C) An individual who has been alleged to have committed or has committed an act of delinquency after becoming 10 years of age and prior to becoming 22 years of age, unless otherwise provided in chapter 52 or 52A of this title; provided, however:

(i) that an individual who is alleged to have committed an act before attaining 10 years of age which would be murder as defined in 13 V.S.A. § 2301 if committed by an adult may be subject to delinquency proceedings; and

(ii) that an individual may be considered a child for the period of time the court retains jurisdiction under section 5104 of this title.

* * *

(16)(A) “~~Legal custody~~ Custody” means the legal status created by order of the court under the authority of the juvenile judicial proceedings chapters ~~which for children under 18 years of age that~~ invests in a party to a juvenile proceeding or another person the following rights and responsibilities:

(i) the right to routine daily care and control of the child and to determine where and with whom the child shall live;

(ii) the authority to consent to major medical, psychiatric, and surgical treatment for a child;

(iii) the responsibility to protect and supervise a child and to provide the child with food, shelter, education, and ordinary medical care; and

(iv) the authority to make decisions ~~which~~ that concern the child and are of substantial legal significance, including the authority to consent to civil marriage and enlistment in the U.S. Armed Forces, and the authority to represent the child in legal actions.

(B) If legal custody of a child under 18 years of age is transferred to a person other than a parent, the rights, duties, and responsibilities so transferred are subject to the residual parental rights of the parents.

(C) Custody for individuals who are 18 years of age or older means the status created by order of the court under the authority of chapter 52 of this title that invests in the Commissioner the authority to make decisions regarding placements.

* * *

Sec. 5. 33 V.S.A. § 5204a is amended to read:

§ 5204a. JURISDICTION OVER ADULT DEFENDANT FOR CRIME
COMMITTED WHEN DEFENDANT WAS UNDER ~~AGE~~ 18
YEARS OF AGE

(a) A proceeding may be commenced in the Family Division against a defendant who has attained 18 years of age if:

(1) the petition alleges that the defendant;

(A) before attaining 18 years of age, violated a crime listed in subsection 5204(a) of this title; ~~or~~

(B) after attaining 14 years of age but before attaining 18 years of age, committed an offense listed in 13 V.S.A. § 5301(7) but not listed in subsection 5204(a) of this title; or

(C) after attaining 17 years of age but before attaining 18 years of age, committed any offense not listed in 13 V.S.A. § 5301(7) or subsection 5204(a) of this title, as long as the petition is filed prior to the defendant's 19th birthday;

(2) a juvenile petition was never filed based upon the alleged conduct; and

(3) the statute of limitations has not tolled on the crime which the defendant is alleged to have committed.

(b)(1) The Family Division shall, except as provided in subdivision (2) of this subsection, transfer a petition filed pursuant to subdivision (a)(1)(A) of this section to the Criminal Division if the Family Division finds that:

(A) there is probable cause to believe that while the defendant was less than 18 years of age he or she committed an act listed in subsection 5204(a) of this title;

(B) there was good cause for not filing a delinquency petition in the Family Division when the defendant was less than 18 years of age;

(C) there has not been an unreasonable delay in filing the petition; and

(D) transfer would be in the interest of justice and public safety.

(2)(A) If a petition has been filed pursuant to subdivision (a)(1)(A) of this section, the Family Division may order that the defendant be treated as a youthful offender consistent with the applicable provisions of chapter 52A of this title if the defendant is under 23 years of age and the Family Division:

(i) makes the findings required by subdivisions (1)(A), (B), and (C) of this subsection;

(ii) finds that the youth is amenable to treatment or rehabilitation as a youthful offender; and

(iii) finds that there are sufficient services in the Family Division system and the Department for Children and Families or the Department of Corrections to meet the youth's treatment and rehabilitation needs.

(B) If the Family Division orders that the defendant be treated as a youthful offender, the court shall approve a disposition case plan and impose conditions of probation on the defendant.

(C) If the Family Division finds after hearing that the defendant has violated the terms of his or her probation, the Family Division may:

(i) maintain the defendant's status as a youthful offender, with modified conditions of probation if the court deems it appropriate; or

(ii) revoke the defendant's youthful offender status and transfer the petition to the Criminal Division pursuant to subdivision (1) of this subsection.

(3) The Family Division shall in all respects treat a petition filed pursuant to subdivision (a)(1)(B) of this section in the same manner as a petition filed pursuant to section 5201 of this title, except that the Family Division's jurisdiction shall end on or before the defendant's 22nd birthday, if the Family Division:

(A) finds that there is probable cause to believe that, after attaining 14 years of age but before attaining 18 years of age, the defendant committed an offense listed in 13 V.S.A. § 5301(7) but not listed in subsection 5204(a) of this title; and

(B) makes the findings required by subdivisions (b)(1)(B) and (C) of this section.

(4) In making the determination required by subdivision (1)(D) of this subsection, the court may consider, among other matters:

(A) the maturity of the defendant as determined by consideration of his or her age; home; environment; emotional, psychological, and physical maturity; and relationship with and adjustment to school and the community;

(B) the extent and nature of the defendant's prior criminal record and record of delinquency;

(C) the nature of past treatment efforts and the nature of the defendant's response to them;

(D) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner;

(E) the nature of any personal injuries resulting from or intended to be caused by the alleged act;

(F) whether the protection of the community would be best served by transferring jurisdiction from the Family Division to the Criminal Division of the Superior Court.

(c) If the Family Division does not transfer a petition filed pursuant to subdivision (a)(1)(A) of this section to the Criminal Division or order that the defendant be treated as a youthful offender pursuant to subsection (b) of this section, the petition shall be dismissed.

(d)(1) The Family Division shall treat a petition filed pursuant to subdivision (a)(1)(C) of this section in all respects in the same manner as a petition filed pursuant to section 5201 of this title if the court:

(A) finds that there is probable cause to believe that, after attaining 17 years of age but before attaining 18 years of age, the defendant committed an offense not listed in 13 V.S.A. § 5301(7) or subsection 5204(a) of this title; and

(B) makes the findings required by subdivisions (b)(1)(B) and (C) of this section.

(2) The Family Division's jurisdiction over cases filed pursuant to subdivision (a)(1)(C) of this section shall end on or before the defendant's 20th birthday.

Sec. 6. 33 V.S.A. § 5206 is amended to read:

§ 5206. ~~CITATION OF 16- AND 17- YEAR-OLDS~~ TO 18-YEAR-OLDS

(a)(1) If a child was over 16 years of age and under ~~18~~ 19 years of age at the time the offense was alleged to have been committed and the offense is not specified in subsection (b) of this section, law enforcement shall cite the child to the Family Division of the Superior Court.

(2) If, after the child is cited to the Family Division, the State's Attorney chooses to file the charge in the Criminal Division of the Superior Court, the State's Attorney shall state in the information the reason why filing in the Criminal Division is in the interest of justice.

(b) Offenses for which a law enforcement officer is not required to cite a child to the Family Division of the Superior Court shall include:

(1) 23 V.S.A. §§ 674 (driving while license suspended or revoked); 1128 (accidents-duty to stop); and 1133 (eluding a police officer).

(2) Fish and wildlife offenses that are not minor violations as defined by 10 V.S.A. § 4572.

(3) ~~A listed crime as defined in 13 V.S.A. § 5301.~~

(4) An offense listed in subsection 5204(a) of this title.

Sec. 7. 33 V.S.A. § 5206 is amended to read:

§ 5206. CITATION OF 16- TO ~~18-YEAR-OLDS~~ 19-YEAR-OLDS

(a)(1) If a child was over 16 years of age and under ~~19~~ 20 years of age at the time the offense was alleged to have been committed and the offense is not specified in subsection (b) of this section, law enforcement shall cite the child to the Family Division of the Superior Court.

* * *

Sec. 8. 33 V.S.A. § 5280 is amended to read:

§ 5280. COMMENCEMENT OF YOUTHFUL OFFENDER
PROCEEDINGS IN THE FAMILY DIVISION

(a) A proceeding under this chapter shall be commenced by:

(1) the filing of a youthful offender petition by a State's Attorney; or

(2) transfer to the Family Court of a proceeding from the Criminal Division of the Superior Court as provided in section 5281 of this title.

(b) A State's Attorney may commence a proceeding in the Family Division of the Superior Court concerning a child who is alleged to have committed an offense after attaining 14 years of age but not 22 years of age that could otherwise be filed in the Criminal Division.

(c) If a State's Attorney files a petition under subdivision (a)(1) of this section, the case shall proceed as provided under subsection 5281(b) of this title.

(d) Within 15 days after the commencement of a youthful offender proceeding pursuant to subsection (a) of this section, the youth shall be offered a risk and needs screening, which shall be conducted by the Department or by a community provider that has contracted with the Department to provide risk and needs screenings. The risk and needs screening shall be completed prior to the youthful offender status hearing held pursuant to section 5283 of this title. Unless the court extends the period for the risk and needs screening for good cause shown, the Family Division shall reject the case for youthful offender treatment if the youth does not complete the risk and needs screening within 15 days of the offer for the risk and needs screening.

(1) The Department or the community provider shall report the risk level result of the screening, the number and source of the collateral contacts made, and the recommendation for charging or other alternatives to the State's Attorney.

(2) Information related to the present alleged offense directly or indirectly derived from the risk and needs screening or other conversation with the Department or community-based provider shall not be used against the youth in the youth's criminal or juvenile case for any purpose, including impeachment or cross-examination. However, the fact of participation in risk and needs screening may be used in subsequent proceedings.

(e) If The State's Attorney shall refer directly to court diversion a youth alleged to have committed any offense other than those specified in subsection 5204(a) of this title who presents a low to moderate risk to reoffend based on the results of the risk and needs screening, ~~the State's Attorney shall refer a youth directly to court diversion unless the State's Attorney states on the record at the hearing held pursuant to section 5283 of this title why a referral would not serve the ends of justice. If the court diversion program does not accept the case or if the youth fails to complete the program in a manner deemed satisfactory and timely by the provider, the youth's case shall return to the State's Attorney for charging consideration.~~

Sec. 9. 33 V.S.A. § 5287 is amended to read:

§ 5287. TERMINATION OR CONTINUANCE OF PROBATION

(a) A motion or stipulation may be filed at any time in the Family Division requesting that the court terminate the youth's status as a youthful offender and discharge him or her from probation. The motion may be filed by the State's Attorney, the youth, the Department, or the court on its own motion. ~~The court shall set the motion for hearing and provide notice and an opportunity to be heard at the hearing to the State's Attorney, the youth, the Department for Children and Families and the Department of Corrections.~~

(b) In determining whether a youth has successfully completed the terms of probation, the court shall consider:

(1) the degree to which the youth fulfilled the terms of the case plan and the probation order;

(2) the youth's performance during treatment;

(3) reports of treatment personnel; and

(4) any other relevant facts associated with the youth's behavior.

(c) If the court finds that the youth has successfully completed the terms of the probation order, it shall terminate youthful offender status, discharge the youth from probation, and file a written order dismissing the Family Division case. The Family Division shall provide notice of the dismissal to the Criminal Division, which shall dismiss the criminal case.

(d) Upon discharge and dismissal under subsection (c) of this section, all records relating to the case in the Criminal Division shall be expunged, and all records relating to the case in the Family Court shall be sealed pursuant to section 5119 of this title.

(e) If the court denies the motion to discharge the youth from probation, the court may extend or amend the probation order as it deems necessary.

(f) Upon the termination of the period of probation, the youth shall be discharged from probation.

Sec. 10. 33 V.S.A. subchapter 6 is amended to read:

Subchapter 6. Placement of ~~Minors~~ in Secure Facilities

§ 5291. DETENTION OR TREATMENT OF ~~MINORS~~ INDIVIDUALS
CHARGED AS DELINQUENTS IN SECURE FACILITIES FOR
THE DETENTION OR TREATMENT OF DELINQUENT
CHILDREN

(a) Prior to disposition, the court shall have the sole authority to place a child who is in the custody of the Department in a secure facility used for the detention or treatment of delinquent children until the Commissioner determines that a suitable placement is available for the child. The court shall not order placement in a secure facility without a recommendation from the Department that placement in a secure facility is necessary. The court order shall include a finding that no other suitable placement is available and the child presents a risk of injury to himself or herself, to others, or to property.

* * *

Sec. 11. 28 V.S.A. § 1101 is amended to read:

§ 1101. POWERS AND RESPONSIBILITIES OF THE COMMISSIONER
REGARDING JUVENILE SERVICES

The Commissioner is charged with the following powers and responsibilities regarding the administration of juvenile services:

(1) to provide appropriate, ~~separate~~ facilities for the custody and treatment of offenders under 25 years of age committed to his or her custody in accordance with the laws of the State;

* * *

Sec. 12. REDUCTION IN FORCE OF WOODSIDE JUVENILE
REHABILITATION CENTER EMPLOYEES

On or before the date of passage of this act, the State of Vermont and the collective bargaining representative of the employees employed at the Woodside Juvenile Rehabilitation Center facility shall engage in bargaining regarding whether and how to modify any terms of the applicable collective bargaining agreement in relation to permanent status classified employees who are subject to a reduction in force from their positions at the Woodside Juvenile Rehabilitation Center facility.

Sec. 13. POPULATION FUNDING COMMITMENT; AGENCY OF
HUMAN SERVICES; WOODSIDE JUVENILE
REHABILITATION CENTER; PLAN FOR JUSTICE-INVOLVED
YOUTHS

(a) The Fiscal Year 2021 budget as proposed by the Administration:

(1) anticipates closure of the secure Woodside Juvenile Rehabilitation Center facility that provides short and long-term placements and treatment services for justice-involved youths and youths in the custody of the Department for Children and Families; and

(2) allocates in FY21 a total of \$2,500,000.00 in General Funds and any Federal Medicaid matching funds to serve this population in alternative placements approved by the Department for Children and Families.

(b) It is the intent of the General Assembly that the Woodside Juvenile Rehabilitation Center facility remain open until its closure is authorized by the appropriate committees of the General Assembly as provided in this subsection. Upon completion of its plan as provided in subsection (c) of this section, the Agency shall report to the appropriate committees as follows:

(1) prior to the adjournment of the 2020 legislative session, the Agency shall report to the Senate Committee on Judiciary and the House Committee on Human Services; or

(2) after the adjournment of the 2020 legislative session, the Agency shall report to the Joint Fiscal Committee and the Joint Legislative Justice Oversight Committee.

(c) The appropriate committees as set forth in subsection (b) of this section shall authorize the closure of the facility upon approving the Agency's plan to:

(1) adequately fund alternative programs and placements for youths served by Woodside, including those programs and placements that currently accept justice-involved youths who present a risk of injury to themselves, to others, or to property; and

(2) provide placements for all youths under 18 years of age who are in the custody of the Department of Corrections, and who have historically been placed at Woodside Juvenile Rehabilitation Center instead of a Department of Corrections facility pursuant to the memorandum of understanding between the two departments.

Sec. 14. AGENCY OF HUMAN SERVICES; PLAN FOR YOUTHS WITH MENTAL HEALTH DISORDERS

(a) During the 2020 legislative interim, the Agency of Human Services shall develop a plan to provide comprehensive mental health treatment services to youths, including justice-involved youths, with severe mental health disorders.

(b) On or before January 15, 2021, the Agency shall report to the House and Senate Committees on Judiciary, the House Committee on Corrections and Institutions, the Senate Institutions Committee, the House Human Services Committee, and the Senate Committee on Health and Welfare on its plans pursuant to this subsection and recommendations for repurposing of the Woodside facility.

Sec. 15. APPROPRIATION

In FY21, the amount of \$2,500,000.00, as reflected in the Governor's proposed FY2021 budget, is appropriated from the General Fund to the Agency of Human Services to fund short and long-term residential placements and treatment services for justice-involved youth and youth in the custody of the Department for Children and Families.

Sec. 16. EFFECTIVE DATES

(a) Secs. 3 (33 V.S.A. § 510(c)) and 7 (33 V.S.A. § 5206) shall take effect on July 1, 2022.

(b) This section and Sec. 15 (appropriation) shall take effect on passage.

(c) The rest of this act shall take effect on July 1, 2020.

(Committee vote: 5-0-0)

S. 234.

An act relating to miscellaneous judiciary procedures.

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

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

Sec. 1. 3 V.S.A. § 163 is amended to read:

§ 163. JUVENILE COURT DIVERSION PROJECT

* * *

(i) Notwithstanding subdivision (c)(1) of this section, the diversion program may accept cases from the Youth Substance ~~Abuse~~ Awareness Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in effect unless the person fails to register with or complete the Youth Substance ~~Abuse~~ Awareness Safety Program.

* * *

Sec. 2. 3 V.S.A. § 164 is amended to read:

§ 164. ADULT COURT DIVERSION PROGRAM

* * *

(l) Notwithstanding subdivision (e)(1) of this section, the diversion program may accept cases from the Youth Substance ~~Abuse~~ Awareness Safety Program pursuant to 7 V.S.A. § 656 or 18 V.S.A. § 4230b. The confidentiality provisions of this section shall become effective when a notice of violation is issued under 7 V.S.A. § 656(b) or 18 V.S.A. § 4230b(b), and shall remain in effect unless the person fails to register with or complete the Youth Substance ~~Abuse~~ Awareness Safety Program.

* * *

Sec. 3. 18 V.S.A. § 4230a is amended to read:

§ 4230A. ~~MARIJUANA~~ CANNABIS POSSESSION BY A PERSON 21
YEARS OF AGE OR OLDER

* * *

(d) Fifty percent of the civil penalties imposed by the Judicial Bureau for violations of this section shall be deposited in the Drug Task Force Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Department of Public Safety for the funding of law enforcement officers on the Drug Task Force, except for a \$12.50 administrative charge for each violation, which shall be deposited in the Court Technology Special Fund, in accordance with 13 V.S.A. § 7252. The remaining 50 percent shall be deposited in the Youth Substance Abuse Awareness Safety Program Special Fund, hereby created to be managed pursuant to 32 V.S.A. chapter 7, subchapter 5, and available to the Court Diversion Program for funding of the Youth Substance Abuse Awareness Safety Program as required by section 4230b of this title.

* * *

Sec. 4. 18 V.S.A. § 4230f is amended to read:

§ 4230F. DISPENSING ~~MARIJUANA~~ CANNABIS TO A PERSON UNDER
21 YEARS OF AGE; CRIMINAL OFFENSE

* * *

(e)(1) Subsections (a)–(d) of this section shall not apply to a person under 21 years of age who dispenses ~~marijuana~~ cannabis to a person under 21 years of age or who knowingly enables the consumption of ~~marijuana~~ cannabis by a person under 21 years of age.

(2) A person who is 18, 19, or 20 years of age who knowingly dispenses ~~marijuana~~ cannabis to a person who is 18, 19, or 20 years of age commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Awareness Safety Program in accordance with the provisions of section 4230b of this title and shall be subject to the penalties in that section for failure to complete the program successfully.

* * *

Sec. 5. 7 V.S.A. § 656 is amended to read:

§ 656. PERSON 16 YEARS OF AGE OR OLDER AND UNDER 21 YEARS OF AGE MISREPRESENTING AGE, PROCURING, POSSESSING, OR CONSUMING ALCOHOLIC BEVERAGES; CIVIL VIOLATION.

(a)(1) Prohibited conduct. A person 16 years of age or older and under 21 years of age shall not:

(A) Falsely represent his or her age for the purpose of procuring or attempting to procure malt or vinous beverages, spirits, or fortified wines from any licensee, State liquor agency, or other person or persons.

(B) Possess malt or vinous beverages, spirits, or fortified wines for the purpose of consumption by himself or herself or other minors, except in the regular performance of duties as an employee of a licensee licensed to sell alcoholic liquor.

(C) Consume malt or vinous beverages, spirits, or fortified wines. A violation of this subdivision may be prosecuted in a jurisdiction where the minor has consumed malt or vinous beverages, spirits, or fortified wines or in a jurisdiction where the indicators of consumption are observed.

(2) Offense. A person ~~under 21 years of age~~ who knowingly violates subdivision (1) of this subsection commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Awareness Safety Program. A person who fails to complete the program successfully shall be subject to:

(A) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(B) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

(b) Issuance of notice of violation. A law enforcement officer shall issue a person ~~under 21 years of age~~ who violates this section a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

* * *

Sec. 6. 18 V.S.A. § 4230b is amended to read:

§ 4230b. MARIJUANA CANNABIS POSSESSION BY A PERSON 16 YEARS OF AGE OR OLDER AND UNDER 21 YEARS OF AGE, CIVIL VIOLATION

(a) Offense. A person 16 years of age or older and under 21 years of age who knowingly and unlawfully possesses one ounce or less of ~~marijuana~~ cannabis or five grams or less of hashish or two mature ~~marijuana~~ cannabis plants or fewer or four immature ~~marijuana~~ cannabis plants or fewer commits a civil violation and shall be referred to the Court Diversion Program for the purpose of enrollment in the Youth Substance Abuse Safety Program. A person who fails to complete the program successfully shall be subject to:

(1) a civil penalty of \$300.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 30 days, for a first offense; and

(2) a civil penalty of not more than \$600.00 and suspension of the person's operator's license and privilege to operate a motor vehicle for a period of 90 days, for a second or subsequent offense.

(b) Issuance of Notice of Violation. A law enforcement officer shall issue a person ~~under 21 years of age~~ who violates this section with a notice of violation, in a form approved by the Court Administrator. The notice of violation shall require the person to provide his or her name and address and shall explain procedures under this section, including that:

* * *

(d) Registration in Youth Substance ~~Abuse~~ Awareness Safety Program. Within 15 days after receiving a notice of violation, the person shall contact the Diversion Program in the county where the offense occurred and register for the Youth Substance ~~Abuse~~ Awareness Safety Program. If the person fails to do so, the Diversion Program shall file the summons and complaint with the Judicial Bureau for adjudication under 4 V.S.A. chapter 29. The Diversion Program shall provide a copy of the summons and complaint to the law enforcement officer who issued the notice of violation and shall provide two copies to the person charged with the violation.

* * *

(f)(1) Diversion Program Requirements. Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance ~~Abuse~~ Awareness Safety Program. Pursuant to the Youth Substance ~~Abuse~~ Awareness Safety Program, the Diversion Program shall impose conditions on the person. The conditions

imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

* * *

Sec. 7. 18 V.S.A. § 4230j is added to read:

§ 4230j. CANNABIS POSSESSION BY A PERSON UNDER 16 YEARS OF AGE; DELINQUENCY

A person under 16 years of age who engages in conduct in violation of subdivision 4230b of this title commits a delinquent act and shall be subject to 33 V.S.A. chapter 52. The person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Program would not serve the ends of justice.

Sec. 8. 23 V.S.A. § 203 is amended to read:

§ 203. COUNTERFEITING, FRAUD, AND MISUSE; PENALTY

(a) A person shall not:

* * *

(2) display or cause or permit to be displayed, or have in his or her possession, any fictitious or fraudulently altered operator license, learner's permit, nondriver identification card, inspection sticker, or registration certificate, or display for any fraudulent purpose an expired or counterfeit insurance identification card or similar document;

* * *

(b)(1) A Except as provided in subdivision (2) of this subsection, a violation of subsection (a) of this section shall be a traffic violation for which there shall be a penalty of not more than \$1,000.00. If a person is found to have committed the violation, the person's privilege to operate motor vehicles shall be suspended for 60 days.

(2) If a person may be charged with a violation of subdivision (a)(2) of this section or with a violation of 7 V.S.A. § 656, the person shall be charged with a violation of 7 V.S.A. § 656 and not with a violation of this section.

Sec. 9. 4 V.S.A. § 1105 is amended to read:

§ 1105. ANSWER TO COMPLAINT; DEFAULT

(a) A violation shall be charged upon a summons and complaint form approved and distributed by the Court Administrator. The complaint shall be signed by the issuing officer or by the State's Attorney. The original shall be filed with the Judicial Bureau; a copy shall be retained by the issuing officer or State's Attorney and two copies shall be given to the defendant. The Judicial Bureau may, consistent with rules adopted by the Supreme Court pursuant to 12 V.S.A. § 1, accept electronic signatures on any document, including the signatures of issuing officers, State's Attorneys, and notaries public. The complaint shall include a statement of rights, instructions, notice that a defendant may ~~admit, not contest, or deny a violation~~ request a hearing or accept the penalties without a hearing, notice of the fee for failure to answer within ~~20~~ 21 days, and other notices as the Court Administrator deems appropriate. The Court Administrator, in consultation with appropriate law enforcement agencies, may approve a single form for charging all violations, or may approve two or more forms as necessary to administer the operations of the Judicial Bureau.

(b) A person who is charged with a violation shall have ~~20~~ 21 days from the date the complaint is issued to ~~admit or deny the allegations or to state that he or she does not contest the allegations in the complaint~~ request a hearing or to state that he or she will accept the penalties without a hearing. The Judicial Bureau shall assess against a defendant a fee of \$20.00 for failure to answer a complaint within the time allowed. The fee shall be assessed in the default judgment and deposited in the Court Technology Special Fund established pursuant to section 27 of this title.

(c) A person who ~~admits or does not contest the allegations~~ accepts the penalties may so indicate and sign the complaint. The Bureau shall accept the admission or statement that the allegations are not contested and accept payment of the waiver penalty.

(d) If the person sends in the amount of the waiver penalty without signing the complaint, the Bureau shall accept the payment indicating that payment was made and that the allegations were not contested.

(e) A person who denies the allegations or who wishes to have a hearing on the complaint for any other reason may so indicate and sign the complaint. Upon receipt, the Bureau shall schedule a hearing.

* * *

Sec. 10. 12 V.S.A. § 2903(d) is amended to read:

(d) If a judgment lien is not satisfied within 30 days of recording, it may be foreclosed and redeemed as provided in this title and V.R.C.P. 80.1. Unless the court finds that as of the date of foreclosure the amount of the outstanding debt exceeds the value of the real property being foreclosed, ~~section 4531~~ chapter 172 of this title shall apply to foreclosure of a judgment lien.

Sec. 11. 12 V.S.A. § 5812 is amended to read:

§ 5812. OATH TO BE ADMINISTERED TO ATTORNEYS

You solemnly swear that you will do no falsehood, nor consent that any be done in court, and if you know of any, you will give knowledge thereof to the judges of the court or some of them, that it may be reformed; that you will not wittingly, willingly, or knowingly promote, sue, or procure to be sued, any false or unlawful suit, or give aid or consent to the same; that you will delay no ~~man~~ person for lucre or malice, but will act in the office of attorney within the court, according to your best learning and discretion, with all good fidelity as well to the court as to your client. So help you God.

Sec. 12. 13 V.S.A. § 1029 is amended to read:

§ 1029. ALCOHOLISM, LIMITATIONS, EXCEPTIONS

(a) No political subdivision of the State may adopt or enforce a law or rule having the force of law that includes being found in an intoxicated condition as one of the elements of the offense giving rise to a criminal or civil penalty. No political subdivision may interpret or apply any law of general application to circumvent this provision.

(b) Nothing in this section affects any law or rule against operating a motor vehicle or other machinery under the influence of alcohol or possession or use of alcoholic beverages at stated times and places or by a particular class of persons.

(c) This section does not make intoxication or incapacitation as defined in ~~18 V.S.A. § 9142~~ 18 V.S.A. § 4802 an excuse or defense for any criminal act. Nothing contained herein shall change current law relative to insanity as a defense for any criminal act.

(d) This section does not relieve any person from civil liability for any injury to persons or property caused by that person while intoxicated or incapacitated.

Sec. 13. 13 V.S.A. § 3256 is amended to read:

§ 3256. TESTING FOR INFECTIOUS DISEASES

(a)(1)(A) The victim of an offense involving a sexual act may obtain an order from the Criminal or Family Division of the Superior Court in which the offender was convicted of the offense, or was adjudicated delinquent, requiring that the offender be tested for the presence of the etiologic agent for acquired immune deficiency syndrome (AIDS) and other sexually-transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis.

(B) The victim of an offense involving a sexual act may, if a judicial officer finds there is probable cause to believe the offender committed the offense, obtain an order from the Criminal or Family Division of the Superior Court in which the offender was charged with the offense requiring that the offender be tested for the presence of immunodeficiency virus (HIV) within 48 hours after the offender was charged.

(2) If requested by the victim, the State's Attorney shall petition the court on behalf of the victim for an order under this section. For the purposes of this section, "offender" includes a juvenile adjudicated a delinquent.

(b) ~~For purposes of~~ As used in this section, "sexual act" means a criminal offense:

(1) where the underlying conduct of the offender constitutes a sexual act as defined in section 3251 of this title; and

(2) that creates a risk of transmission of the etiologic agent for AIDS to the victim as determined by the federal Centers for Disease Control and Prevention.

(c) If the court determines pursuant to subdivision (a)(1)(A) of this section that the offender was convicted or adjudicated of a crime involving a sexual act with the victim, or that pursuant to subdivision (a)(1)(B) of this section that the offender was charged with a crime involving a sexual act with the victim and there is probable cause to believe the offender committed the offense, the court shall order the test to be administered by the Department of Health in accordance with applicable law. If appropriate under the circumstances, the court may include in its order a requirement for follow-up testing of the offender. An order for follow-up testing shall be terminated if the offender's conviction is overturned. A sample taken pursuant to this section shall be used solely for purposes of this section. All costs of testing the offender shall, if not otherwise funded, be paid by the Department of Public Safety.

(d) The results of the offender's test shall be disclosed only to the offender and the victim.

(e) If an offender who is subject to an order pursuant to subsection (c) of this section refuses to comply with the order, the victim, or State's Attorney on behalf of the victim, may seek a civil contempt order pursuant to 12 V.S.A. chapter 5.

(f) After arraignment, a defendant who is charged with an offense involving a sexual act may offer to be tested for the presence of the etiologic agent for acquired immune deficiency syndrome (AIDS) and other sexually transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis. Such testing shall follow the same procedures set forth for testing an offender who is subject to an order pursuant to subsection (c) of this section. The defendant's offer to be tested after arraignment shall not be used as evidence at the defendant's trial. If the defendant is subsequently convicted of an offense involving a sexual act, the court may consider the offender's offer for testing as a mitigating factor.

(g) Upon request of the victim at any time after the commission of a crime involving a sexual act under subsection (b) of this section, the State shall provide any of the following services to the victim:

(1) counseling regarding human immunodeficiency virus (HIV);

(2) testing, which shall remain confidential unless otherwise provided by law, for HIV and other sexually transmitted diseases, including gonorrhea, herpes, chlamydia, and syphilis;

(3) counseling by a medically trained professional on the accuracy of the testing, and the risk of transmitting HIV and other sexually transmitted diseases to the victim as a result of the crime involving a sexual act; and

(4) prophylaxis treatment, crisis counseling, and support services.

(h) A victim who so requests shall receive monthly follow-up HIV testing for six months after the initial test.

(i) The State shall provide funding for HIV or AIDS, or both, and sexual assault cross-training between sexual assault programs and HIV and AIDS service organizations.

(j) The record of the court proceedings and test results pursuant to this section shall be sealed.

(k) The Court Administrator's Office shall develop and distribute forms to implement this section in connection with a criminal conviction or adjudication of delinquency.

(l) The Center for Crime Victim Services shall be the primary coordinating agent for the services to be provided in subsections (g), (h), and (i) of this section.

Sec. 14. 13 V.S.A. § 7602 is amended to read:

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

* * *

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

* * *

(C) Any restitution and surcharges ordered by the court ~~has~~ have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

* * *

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

* * *

(D) Any restitution and surcharges ordered by the court for any crime of which the person has been convicted has been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

* * *

(d) For petitions filed pursuant to subdivision (a)(1)(B) of this section, unless the court finds that expungement would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be expunged in accordance with section 7606 of this title if the following conditions are met:

* * *

(2) Any restitution and surcharges ordered by the court ~~has~~ have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

* * *

Sec. 15. 13 V.S.A. § 7609 is amended to read:

§ 7609. EXPUNGEMENT OF CRIMINAL HISTORY RECORDS OF AN
INDIVIDUAL 18–21 YEARS OF AGE

(a) Procedure. Except as provided in subsection (b) of this section, the record of the criminal proceedings for an individual who was 18–21 years of age at the time the individual committed a qualifying crime shall be expunged within 30 days after the date on which the individual successfully completed the terms and conditions of the sentence for the conviction of the qualifying crime, absent a finding of good cause by the court. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. A copy of the order shall be sent to each agency, department, or official named in the order. Thereafter, the court, law enforcement officers, agencies, and departments shall reply to any request for information that no record exists with respect to such individual. Notwithstanding this subsection, the record shall not be expunged until restitution has and surcharges have been paid in full, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to section 7282 of this title.

* * *

Sec. 16. 14 V.S.A. § 107 is amended to read:

§ 107. ALLOWANCE OF WILL; CUSTODY OF PROPERTY

(a) If consents are filed by all the heirs at law and surviving spouse, a will may be allowed without hearing. If consents are not obtained, the court shall schedule a hearing and notice shall be given as provided by the Rules of Probate Procedure.

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

(1) allow the will on the testimony of only one of the subscribing witnesses if the witness testifies that the will was executed as provided in chapter 1 of this title; or

(2) allow the will without hearing if it meets criteria set out in section 108 of this title.

* * *

Sec. 17. 14 V.S.A. § 1203 is amended to read:

§ 1203. LIMITATIONS ON PRESENTATION OF CLAIMS

* * *

(c) Nothing in this section affects or prevents:

(1) any proceeding to enforce any mortgage, pledge, or other lien upon property of the estate; ~~or~~

(2) to the limits of the insurance protection only, any proceeding to establish liability of the decedent or the executor or administrator for which he or she is protected by liability insurance; or

(3) the enforcement of any tax liability.

Sec. 18. 14 V.S.A. § 2643 is amended to read:

§ 2643. RELEASE BY COURT AND PARENT ON BEHALF OF MINOR

(a) The Superior judge of the Superior Court within and for the county where the minor resides, on behalf of a minor, must approve of and consent to a release to be executed by a parent in the settlement of any claim that does not exceed the sum of \$1,500.00 \$10,000.00. A release so furnished shall be binding on the minor and both parents, their heirs, executors, administrators, or assigns, respectively.

(b) Any claim settled for a sum in excess of \$1,500.00 \$10,000.00 shall require the approval of a court-appointed guardian.

Sec. 19. 15 V.S.A. § 663 is amended to read:

§ 663. SUPPORT ORDERS; REQUIRED CONTENTS

* * *

(c) Every order for child support made or modified under this chapter on or after July 1, 1990, shall:

(1) include an order for immediate wage withholding or, if not subject to immediate wage withholding, include a statement that wage withholding will take effect under the expedited procedure set forth in section 782 of this title;

(2) require payments to be made to the Registry in the Office of Child Support unless subject to an exception under 33 V.S.A. § 4103;

(3) require that every party to the order must notify the Registry in writing of their current mailing address and current residence address and of any change in either address within seven business days of the change, until all

obligations to pay support or support arrearages or to provide for visitation are satisfied;

(4) include in bold letters notification of remedies available under section 798 of this title; and

(5) include in bold letters notification that the parent may seek a modification of his or her support obligation if there has been a showing of a real, substantial, and unanticipated change of circumstances.

* * *

Sec. 20. 15 V.S.A. § 664 is amended to read:

§ 664. DEFINITIONS

As used in this subchapter:

(1) “Parental rights and responsibilities” means the rights and responsibilities related to a child’s physical living arrangements, ~~parent-child contact~~, education, medical and dental care, religion, travel, and any other matter involving a child’s welfare and upbringing.

* * *

Sec. 21. 18 V.S.A. § 7510 is amended to read:

§ 7510. PRELIMINARY HEARING

(a) Within five days after a person is admitted to a designated hospital for emergency examination, he or she may request the ~~Criminal Division of the~~ Superior Court to conduct a preliminary hearing to determine whether there is probable cause to believe that he or she was a person in need of treatment at the time of his or her admission.

* * *

Sec. 22. 24 V.S.A. § 1981 is amended to read:

§ 1981. ENFORCEMENT OF ORDER FROM JUDICIAL BUREAU

(a) Upon the filing of the complaint and entry of a judgment after admission, hearing or entry of default by the hearing officer, subject to any appeal pursuant to 4 V.S.A. § 1107, the person found in violation shall have up to 30 days to pay the penalty to the Judicial Bureau. Upon the expiration of the period to pay the penalty, the person found in violation shall be assessed a surcharge of \$10.00 for the benefit of the municipality. All the civil remedies for collection of judgments shall be available to enforce the final judgment of the Judicial Bureau.

* * *

Sec. 23. 32 V.S.A. § 1434 is amended to read:

§ 1434. PROBATE CASES

(a) The following entry fees shall be paid to the Probate Division of the Superior Court for the benefit of the State, except for subdivisions (18) and (19) of this subsection, which shall be for the benefit of the county in which the fee was collected:

* * *

(28) ~~Petitions for minor settlement pursuant to 14 V.S.A. § 2643 \$90.00~~
[Repealed.]

* * *

Sec. 24. 33 V.S.A. § 5117 is amended to read:

§ 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

* * *

(b)(1) Notwithstanding the foregoing, inspection of such records and files by the following is not prohibited:

* * *

(D) court personnel, the State's Attorney or other prosecutor authorized to prosecute criminal or juvenile cases under State law, the child's guardian ad litem, the attorneys for the parties, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the child;

(E) the child who is the subject of the proceeding, the child's parents, guardian, and custodian, ~~and guardian ad litem~~ may inspect such records and files upon approval of the Family Court judge;

* * *

Sec. 25. 33 V.S.A. § 5119 is amended to read:

§ 5119. SEALING OF RECORDS

* * *

(m) Notwithstanding the provisions of this section, a criminal record may not be sealed if restitution and surcharges are owed, provided that payment of surcharges shall not be required if the surcharges have been waived by the court pursuant to 13 V.S.A. § 7282.

Sec. 26. SUNSET REPEAL

2017 Acts and Resolves No. 61, Sec. 7 (July 1, 2020 sunset of changes to Court Diversion Program) is repealed.

Sec. 27. REPEAL

12 V.S.A. chapter 215, subchapter 1 (voluntary arbitration for medical malpractice cases) is repealed.

Sec. 28. SUNSET REPEAL

2017 Acts and Resolves No. 54, Sec. 6a (July 1, 2020 repeal of 3 V.S.A. § 168, Racial Disparities in Criminal and Juvenile Justice System Advisory Panel) is repealed.

Sec. 29. PERSONS WITH SUSPENDED DRIVER'S LICENSES;
AMNESTY PROGRAM

(a) There is established an Amnesty Program to permit the Judicial Bureau and the Department of Motor Vehicles to waive all traffic tickets, fees, and surcharges associated with motor vehicle operators whose licenses have been suspended for noncriminal reasons if the suspension has lasted for one year or longer. The Amnesty Program shall comply with the guidelines set forth in this section.

(b) On or before September 1, 2020, the Department of Motor Vehicles shall provide to the Office of the Attorney General a list of persons whose operator's licenses have been suspended for noncriminal reasons for one year or longer. On or before September 30, 2020, the Office of the Attorney General shall submit the entire list to the Judicial Bureau and file a single motion requesting that the traffic tickets, Judicial Bureau fees, and surcharges for all persons on the list be waived.

(c)(1) Upon filing of the motion from the Attorney' General's Office required by subsection (b) of this section, the Judicial Bureau shall waive the tickets, fees, and surcharges identified in the motion.

(2) The Judicial Bureau shall provide notice of its action under subdivision (1) of this subsection to the Department of Motor Vehicles.

(d) After receiving notice from the Judicial Bureau pursuant to subdivision (c)(2) of this section, the Department of Motor Vehicles shall:

(1) waive any fees, including those associated with reinstatement, for all persons included on the list submitted to the Judicial Bureau pursuant to subsection (b) or this section;

(2) reinstate the operator's licenses of each person on the list, unless the person is otherwise ineligible for reinstatement; and

(3) notify persons that their licenses have been reinstated, or that their licenses are ineligible for reinstatement and the reason for ineligibility.

Sec. 30. CONFORMING REVISIONS; "MARIJUANA" AND
"CANNABIS"

When preparing the Vermont Statutes Annotated for publication, the Office of Legislative Council shall replace "marijuana" with "cannabis" throughout the statutes as needed for consistency with this act, provided the revisions have no other effect on the meaning of the affected statutes.

Sec. 31. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee vote: 5-0-0)

S. 241.

An act relating to motor vehicle manufacturers that sell directly to consumers.

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

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

Sec. 1. STUDY ON DIRECT-TO-CONSUMER MOTOR VEHICLE SALES;
REPORT

(a) The Agency of Transportation, in consultation with the Attorney General's Office, the Department of Financial Regulation, a manufacturer that engages in direct-to-consumer motor vehicle sales to Vermont consumers, and the Vermont Vehicle and Automotive Distributors Association, shall conduct a study and, on or before December 15, 2020, file a written report on the findings of its study, sources reviewed, and recommendations regarding the regulation of direct-to-consumer motor vehicle sales with the Senate Committees on Economic Development, Housing and General Affairs and on Transportation and the House Committees on Commerce and Economic Development and on Transportation.

(b) The report shall, at a minimum, include a review of:

(1) all Vermont consumer protection laws and regulations that currently apply when a consumer purchases a motor vehicle from a dealer registered

pursuant to 23 V.S.A. chapter 7, subchapter 4, whether those consumer protections currently apply to direct-to-consumer motor vehicle sales, and, if not, whether those consumer protections should apply to direct-to-consumer motor vehicle sales;

(2) how consumers currently obtain financing in direct-to-consumer motor vehicle sales and any proposals that would better protect Vermont consumers who engage in direct-to-consumer motor vehicle sales;

(3) how consumers are currently taxed in direct-to-consumer motor vehicle sales and whether there are steps the State can take to maximize the collection of taxes owed on direct-to-consumer motor vehicle sales where the vehicles are operated in Vermont;

(4) any enforcement issues related to direct-to-consumer motor vehicle sales;

(5) what reasons, if any, exist to prohibit manufacturers engaged in direct-to-consumer motor vehicle sales from owning, operating, or controlling a motor vehicle warranty or service facility in the State and a recommendation on whether a sales center should be required if a manufacturer engaged in direct-to-consumer motor vehicle sales is permitted to own, operate, or control a motor vehicle warranty or service facility in the State;

(6) laws, rules, and best practices from other jurisdictions and any model legislation related to the regulation of direct-to-consumer motor vehicle sales; and

(7) how any proposed amendments to Vermont law regulating direct-to-consumer motor vehicle sales will affect dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4; franchisors and franchisees, as defined in 9 V.S.A. § 4085; and other persons who are selling motor vehicles to Vermonters.

(c) As used in this section “direct-to-consumer motor vehicle sales” means sales made by:

(1) motor vehicle manufacturers that sell or lease vehicles they manufacture directly to Vermont consumers and not through dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4; or

(2) other persons that sell or lease new or used motor vehicles directly to Vermont consumers and not through Vermont licensed dealers registered pursuant to 23 V.S.A. chapter 7, subchapter 4 on websites such as Carvana, Vroom, and TrueCar.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 4-0-1)

S. 243.

An act relating to establishing the Emergency Service Provider Wellness Commission.

Reported favorably with recommendation of amendment by Senator Cummings 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:

Sec. 1. 18 V.S.A. § 7257b is added to read:

§ 7257b. EMERGENCY SERVICE PROVIDER WELLNESS
COMMISSION

(a) As used in this section:

(1) “Chief executive of an emergency service provider organization” means a person in charge of an organization that employs or supervises emergency service providers in their official capacity.

(2) “Emergency service provider” means a person:

(A) currently or formerly recognized by a Vermont Fire Department as a firefighter;

(B) currently or formerly licensed by the Department of Health as an emergency medical technician, emergency medical responder, advanced emergency medical technician, or paramedic;

(C) currently or formerly certified as a law enforcement officer by the Vermont Criminal Justice Training Council, including constables and sheriffs;

(D) currently or formerly employed by the Department of Corrections as a probation, parole, or correctional facility officer; or

(E) currently or formerly certified by the Vermont Enhanced 911 Board as a 911 call taker or employed as an emergency communications dispatcher providing service for an emergency service provider organization.

(3) “Licensing entity” means a State entity that licenses or certifies an emergency service provider.

(b) There is created the Emergency Service Provider Wellness Commission within the Agency of Human Services for the following purposes:

(1) to identify where increased or alternative supports or strategic investments within the emergency service provider community, designated or specialized service agencies, or other community service systems could improve the physical and mental health outcomes and overall wellness of emergency service providers;

(2) to identify how Vermont can increase capacity of qualified clinicians in the treatment of emergency service providers to ensure that the services of qualified clinicians are available throughout the State without undue delay;

(3) to create materials and information, in consultation with the Department of Health, including a list of qualified clinicians, for the purpose of populating an electronic emergency service provider wellness resource center on the Department of Health's website;

(4) to educate the public, emergency service providers, State and local governments, employee assistance programs, and policymakers about best practices, tools, personnel, resources, and strategies for the prevention and intervention of the effects of trauma experienced by emergency service providers and law enforcement officers;

(5) to identify gaps and strengths in Vermont's system of care for emergency service providers;

(6) to recommend how peer support services and qualified clinician services can be delivered regionally or statewide;

(7) to recommend how to support emergency service providers in communities that are resource challenged, remote, small, or rural;

(8) to recommend policies, practices, training, legislation, rules, and services that will increase successful interventions and support for emergency service providers to improve health outcomes, job performance, and personal well-being and reduce health risks, violations of employment, and violence associated with the impact of untreated trauma, including whether to amend Vermont's employment medical leave laws to assist volunteer emergency service providers in recovering from the effects of trauma experienced while on duty; and

(9) to consult with federal, State, and municipal agencies, organizations, entities, and individuals in order to make any other recommendations the Commission deems appropriate.

(c)(1) The Commission shall comprise the following members:

- (A) the Chief of Training of the Vermont Fire Academy or designee;
- (B) a representative, appointed by the Vermont Criminal Justice Training Council;
- (C) the Commissioner of Health or designee;
- (D) the Commissioner of Public Safety or designee;
- (E) the Commissioner of the Department of Corrections or designee;
- (F) the Commissioner of Mental Health or designee;
- (G) the Commissioner of Human Resources or designee;
- (H) a law enforcement officer who is not a chief or sheriff, appointed by the President of the Vermont Police Association;
- (I) a representative, appointed by the Vermont Association of Chiefs of Police;
- (J) a representative, appointed by the Vermont Sheriffs' Association;
- (K) a volunteer firefighter, appointed by the Vermont State Firefighters' Association;
- (L) a representative of the designated and specialized service agencies, appointed by Vermont Care Partners;
- (M) a representative, appointed by the Vermont State Employees Association;
- (N) a representative, appointed by the Vermont Troopers' Association;
- (O) a professional firefighter, appointed by the Professional Firefighters of Vermont;
- (P) a clinician associated with a peer support program who has experience in treating workplace trauma, appointed by the Governor;
- (Q) a professional emergency medical technician or paramedic, appointed by the Vermont State Ambulance Association;
- (R) a volunteer emergency medical technician or paramedic, appointed by the Vermont State Ambulance Association;
- (S) a person who serves or served on a peer support team, appointed by the Governor;
- (T) a representative, appointed by the Vermont League of Cities and Towns;

(U) a Chief, appointed by the Vermont Career Fire Chiefs Association;

(V) a Chief, appointed by the Vermont Fire Chiefs Association; and

(W) a representative, appointed by the Vermont Association for Hospitals and Health Systems.

(2) The members of the Commission specified in subdivision (1) of this subsection shall serve three-year terms. Any vacancy on the Commission shall be filled in the same manner as the original appointment. The replacement member shall serve for the remainder of the unexpired term.

(3) Commission members shall recuse themselves from any discussion of an event or circumstance that the member believes may involve an emergency service provider known by the member and shall not access any information related to it. The Commission may appoint an interim replacement member to fill the category represented by the recused member for review of that interaction.

(d)(1) The Commissioner of Health or designee shall call the first meeting of the Commission to occur on or before September 30, 2020.

(2) The Commission shall select a chair and vice chair from among its members at the first meeting and annually thereafter.

(3) The Commission shall meet at such times as may reasonably be necessary to carry out its duties, but at least once in each calendar quarter.

(4) The Department of Health shall provide technical, legal, and administrative assistance to the Commission.

(e) The proceedings and records of the Commission describing or referring to circumstances or an event involving an emergency service provider, regardless of whether the emergency service provider is identified by name, are confidential and are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action. The Commission shall not use the information, records, or data for purposes other than those designated by this section.

(f) Commission meetings are confidential and shall be exempt from 1 V.S.A. chapter 5, subchapter 2 (the Vermont Open Meeting Law) when the Commission is discussing circumstances or an event involving a specific emergency service provider regardless of whether that person is identified by name. Except as set forth in subsection (e) of this section, Commission records are exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(g) To the extent permitted under federal law, the Commission may enter into agreements with agencies, organizations, and individuals to obtain otherwise confidential information.

(h) Notwithstanding 2 V.S.A. § 20(d), the Commission shall report its conclusions and recommendations to the Governor and General Assembly as the Commission deems necessary, but not less frequently than once per calendar year. The report shall disclose individually identifiable health information only to the extent necessary to convey the Commission's conclusions and recommendations, and any such disclosures shall be limited to information already known to the public. The report shall be available to the public through the Department of Health.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee vote: 4-0-1)

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

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

In Sec. 1, 18 V.S.A. § 7257b, by striking out subsections (e) and (f) in their entireties and inserting in lieu thereof the following:

(e) The Commission's meetings shall be open to the public in accordance with 1 V.S.A. chapter 5, subchapter 2. Notwithstanding 1 V.S.A. § 313, the Commission may go into executive session in the event circumstances or an event involving a specific emergency service provider is described, regardless of whether the emergency service provider is identified by name.

(f) Commission records describing a circumstance or an event involving a specific emergency service provider, regardless of whether the emergency service provider is identified by name, are exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(Committee vote: 6-0-1)

S. 252.

An act relating to stem cell therapies not approved by the U.S. Food and Drug Administration.

Reported favorably with recommendation of amendment by Senator Westman 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:

Sec. 1. 18 V.S.A. chapter 87 is added to read:

CHAPTER 87. STEM CELL PRODUCTS

§ 4501. DEFINITIONS

As used in this chapter:

(1) "Health care practitioner" means an individual licensed by the Board of Medical Practice or by a board attached to the Office of Professional Regulation to provide professional health care services in this State.

(2) "Stem cell products" has the same meaning as "human cells, tissues, or cellular or tissue-based products" in 21 C.F.R. § 1271.3, as in effect on January 1, 2020, and applies to both homologous and nonhomologous use. The term also includes homologous use of minimally manipulated cell or tissue products, as those terms are defined in 21 C.F.R. § 1271.3, as in effect on January 1, 2020, when used or proposed for use in one or more applications not approved by the U.S. Food and Drug Administration.

§ 4502. UNAPPROVED STEM CELL PRODUCTS; NOTICE;
DISCLOSURE

(a) Notice.

(1) A health care practitioner who administers one or more stem cell products that are not approved by the U.S. Food and Drug Administration shall provide each patient with the following written notice prior to administering any such product to the patient for the first time:

"THIS NOTICE MUST BE PROVIDED TO YOU UNDER VERMONT LAW. This health care practitioner administers one or more stem cell products that have not been approved by the U.S. Food and Drug Administration. You are encouraged to consult with your primary care provider prior to having an unapproved stem cell product administered to you."

(2)(A) The written notice required by subdivision (1) of this subsection shall:

(i) be at least 8.5 by 11 inches and printed in not less than 40-point type; and

(ii) include information on methods for filing a complaint with the applicable licensing authority and for making a consumer inquiry.

(B) The health care practitioner shall also prominently display the written notice required by subdivision (1) of this subsection, along with the information required to be included by subdivision (A)(ii) of this subdivision (2), at the entrance and in an area visible to patients in the health care practitioner's office.

(b) Disclosure.

(1) A health care practitioner who administers stem cell products that are not approved by the U.S. Food and Drug Administration shall provide a disclosure form to a patient for the patient's signature prior to each administration of an unapproved stem cell product.

(2) The disclosure form shall state, in language that the patient could reasonably be expected to understand, the stem cell product's U.S. Food and Drug Administration approval status.

(3) The health care practitioner shall retain in the patient's medical record a copy of each disclosure form signed and dated by the patient.

(c) Advertisements. A health care practitioner shall include the notice set forth in subdivision (a)(1) of this section in any advertisements relating to the use of stem cell products that are not approved by the U.S. Food and Drug Administration. In print advertisements, the notice shall be clearly legible and in a font size not smaller than the largest font size used in the advertisement. For all other forms of advertisements, the notice shall either be clearly legible in a font size not smaller than the largest font size used in the advertisement or clearly spoken.

(d) Nonapplicability. The provisions of this section shall not apply to the following:

(1) a health care practitioner who has obtained approval or clearance for an investigational new drug or device from the U.S. Food and Drug Administration for the use of stem cell products; or

(2) a health care practitioner who administers a stem cell product pursuant to an employment or other contract to administer stem cell products on behalf of or under the auspices of an institution certified by the Foundation for the Accreditation of Cellular Therapy, the National Institutes of Health

Blood and Marrow Transplant Clinical Trials Network, or AABB, formerly known as the American Association of Blood Banks.

(e) Violations. A violation of this section constitutes unprofessional conduct under 3 V.S.A. § 129a and 26 V.S.A. § 1354.

Sec. 2. 3 V.S.A. § 129a is amended to read:

§ 129a. UNPROFESSIONAL CONDUCT

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

* * *

(27) For a health care practitioner, failing to comply with one or more of the notice, disclosure, or advertising requirements in 18 V.S.A. § 4502 for administering stem cell products not approved by the U.S. Food and Drug Administration.

* * *

Sec. 3. 26 V.S.A. § 1354 is amended to read:

§ 1354. UNPROFESSIONAL CONDUCT

(a) The Board shall find that any one of the following, or any combination of the following, whether the conduct at issue was committed within or outside the State, constitutes unprofessional conduct:

* * *

(39) use of the services of a physician assistant by a physician in a manner that is inconsistent with the provisions of chapter 31 of this title; or

(40) use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age; or

(41) failure to comply with one or more of the notice, disclosure, or advertising requirements in 18 V.S.A. § 4502 for administering stem cell products not approved by the U.S. Food and Drug Administration.

* * *

Sec. 4. DEPARTMENT OF HEALTH; ADVANCE DIRECTIVES;
RULEMAKING

The Department of Health shall amend its rules on advance directives to further clarify the scope of experimental treatments to which an agent may and may not provide consent on behalf of a principal. The Department's amended rules shall take effect not later than January 1, 2021.

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 administering stem cell products not approved by the U.S. Food and Drug Administration.

(Committee vote: 5-0-0)

S. 254.

An act relating to union organizing.

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

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

* * * Bargaining Unit Contact Information * * *

Sec. 1. 3 V.S.A. § 941 is amended to read:

§ 941. UNIT DETERMINATION, CERTIFICATION, AND REPRESENTATION

* * *

(c) A petition may be filed with the Board, in accordance with procedures prescribed by the Board:

(1) By an employee or group of employees, or any individual or employee organization purporting to act in their behalf, alleging by filing a petition or petitions bearing signatures of not less than 30 percent of the employees, that they wish to form a bargaining unit and be represented for collective bargaining, or that the individual or employee organization currently certified as bargaining agent is no longer supported by at least 51 percent of the employees in the bargaining unit, or that they are now included in an approved bargaining unit and wish to form a separate bargaining unit under Board criteria for purposes of collective bargaining.

(2)(A)(i) An employee or group of employees, or any individual or employee organization purporting to act in their behalf, that is seeking to

determine interest in the formation of a bargaining unit or representation for collective bargaining may petition the employer and the Board for a list of the employees in the proposed bargaining unit.

(ii) An employee or group of employees, or any person purporting to act on their behalf, that is seeking to demonstrate that the individual or employee organization currently certified as bargaining agent is no longer supported by at least 51 percent of the employees in the bargaining unit shall not be entitled to obtain a list of the employees in the proposed bargaining unit pursuant to this subdivision (c)(2).

(B) Within two business days after receiving the petition, the employer shall file with the Board and the employee or group of employees, or the individual or employee organization purporting to act in their behalf, a list of the names and job titles of the employees in the proposed bargaining unit. To the extent possible, the list of employees shall be in alphabetical order by last name and provided in electronic format.

(d)(1) The Board, a Board member thereof, or a person or persons designated by the Board shall investigate the petition, and do one of the following:

(A) Determine that a sufficient showing of interest has been made by the petition.

~~(1)(B)(i) if~~ If it finds reasonable cause to believe that a question of unit determination or representation exists, ~~an appropriate hearing shall be scheduled before the Board upon due notice~~ the Board shall schedule a hearing to be held before the Board not more than eight days after the petition was filed with the Board unless:

(I) the parties named in the petition mutually agree to extend the time for the hearing; or

(II) the Board determines that the time for the hearing must be extended due to an insufficient number of Board members being available to hold a hearing or the Executive Director of the Board is unavailable due to leave.

(ii)(I) Once scheduled, the date of the hearing shall not be subject to change except for good cause as determined by the Board. Upon request, the results of the investigation shall be made available by the Board to the petitioners and all intervenors, if any, including the duly certified bargaining representative prior to giving notice of hearing. Written notice of the hearing shall be mailed by certified mail to the parties named in the petition not less than seven calendar days before the hearing.

(II) The time for a hearing shall not be extended pursuant to subdivisions (d)(1)(B)(i)(I) or (II) of this section for more than an additional 30 days.

(iii) Hearing procedure and notification of the results of same the hearing shall be in accordance with rules prescribed adopted by the Board, or except that the parties shall not be permitted to submit briefs to the Board after the conclusion of the hearing unless the parties mutually agree to do so and the Board consents.

(iv) The Board shall issue its decision not more than two business days after the hearing or 10 days after the petition was submitted, whichever is later.

(2)(C) dismiss the petition, based upon the If the Board finds an absence of substantive evidence, it shall dismiss the petition.

(2) Upon request, the results of the investigation shall be made available by the Board to the petitioners and all intervenors, if any, including the duly certified bargaining representative as soon as practicable after the investigation is completed.

(e)(1)(A) Whenever, as a result of a petition and an appropriate or hearing, the Board finds substantial interest among employees in forming a bargaining unit or being represent for purposes of collective bargaining, a secret ballot election shall be conducted by the Board to be taken in such manner as to show not more than 21 days after the petition is filed with the Board.

(B) The time to conduct the election may be extended by:

(i) mutual agreement of the parties; or

(ii) the Board due to a lack of staff available to conduct the election or other circumstances that make it impracticable for the Board to conduct the election within 21 days after the petition is filed.

(C) The Board shall not hold a hearing to resolve any disputes related to the membership of the bargaining unit until after the election unless the parties mutually agree to extend the time for the election for the purpose of resolving those issues.

(2) The election shall be conducted so that it shows separately the wishes of the employees in the voting group involved as to the determination of the collective bargaining unit, including the right not to be organized. In order for a The collective bargaining unit to or collective bargaining representative shall be recognized and certified by the Board, there must be upon a majority vote cast by those of the employees voting.

(3)(A) Unless the employer and labor organization agree to a longer period, the employer shall file with the Board and the labor organization that will be named on the ballot a list of the employees in the bargaining unit within two business days after:

(i) the Board determines that substantial interest exists and a secret ballot election shall be conducted; or

(ii) the parties stipulate to the composition of the bargaining unit.

(B) The list shall include, as appropriate, each employee's name, work location, shift, job classification, and contact information. As used in this subdivision (2), "contact information" includes an employee's home address, personal e-mail address, and home and personal cellular telephone numbers.

(C) To the extent possible, the list of employees shall be in alphabetical order by last name and provided in electronic format.

(D) The list shall be kept confidential by the employer and the labor organization and shall be exempt from copying and inspection under the Public Records Act.

(E) Failure to file the list within the time required pursuant to subdivision (A) of this subdivision (2) shall be grounds for the Board to set aside the results of the election if an objection is filed within the time required pursuant to the Board's rules.

* * *

(g)(1) In determining the representation of State employees in a collective bargaining unit, the Board shall conduct a secret ballot of the employees not more than 21 days after the petition is filed with the Board, unless the time to conduct the election is extended pursuant to subdivision (e)(1)(B) of this section, and certify the results to the interested parties and to the State employer. The original ballot shall be so prepared as to permit a vote against representation by anyone named on the ballot. No representative will be certified with less than a majority of the votes cast.

* * *

Sec. 2. 16 V.S.A. § 1992 is amended to read:

§ 1992. REFERENDUM PROCEDURE FOR REPRESENTATION

(a)(1) An organization purporting to represent a majority of all of the teachers or administrators employed by the school board may be recognized by the school board without the necessity of a referendum upon the submission of

a petition bearing the valid signatures of a majority of the teachers or administrators employed by that school board. Within 15 days after receiving the petition the school board shall notify the teachers or administrators of the school district in writing of its intention to either require or waive a secret ballot referendum. If the school board gives notice of its intention to waive a referendum and recognize an organization, 10 percent of the teachers or administrators employed by the school board may submit a petition within 15 days thereafter, objecting to the granting ~~or of~~ of recognition without a referendum, in which event a secret ballot referendum shall be held in the district for the purpose of choosing an exclusive representative ~~according to the guidelines for referendum contained in this legislation~~ as provided pursuant to the provisions of this section.

(2)(A)(i) An organization seeking to represent the teachers or administrators employed by a school board may petition the school board and the Vermont Labor Relations Board for a list of the teachers or administrators in the proposed bargaining unit.

(ii) An organization or group of teachers or administrators, or any person purporting to act on their behalf, that is seeking to demonstrate that the teachers' or administrators' organization that is currently the exclusive representative of the teachers or administrators is no longer supported by a majority of the teachers or administrators employed by that school board shall not be entitled to obtain a list of the employees in the proposed bargaining unit pursuant to this subdivision (a)(2).

(B) Within two business days after receiving the petition, the school board shall file with the Vermont Labor Relations Board and the organization a list of the names and job titles of the teachers or administrators in the proposed bargaining unit. To the extent possible, the list of employees shall be in alphabetical order by last name and provided in electronic format.

* * *

(c)(1)(A) A secret ballot referendum shall be held ~~any time that~~ not more than 21 days after 20 percent of the teachers or administrators employed by the school board present a petition requesting a referendum on the matter of representation, except during a period of prior recognition, as ~~hereinbefore~~ provided pursuant to subsection (b) of this section.

(B) The parties may mutually agree to extend the time to hold the election set forth in subdivision (A) of this subdivision (1).

(C) Any organization interested in representing teachers or administrators in the school district shall have the right to appear on the ballot

by submitting a petition supported by ten percent or more of the teachers or administrators in the school district.

(2)(A) Unless the school board and the organization agree to a longer period, within two business days after the petition is presented, the school board shall file with the organization that will be named on the ballot a list of the teachers or administrators in the bargaining unit.

(B) The list shall include, as appropriate, each teacher's or administrator's name, work location, job classification, and contact information. As used in this subdivision (2), "contact information" includes a teacher's or administrator's home address, personal e-mail address, and home and personal cellular telephone numbers.

(C) To the extent possible, the list of teachers or administrators shall be in alphabetical order by last name and provided in electronic format.

(D) The list shall be kept confidential by the school board and the organization and shall be exempt from copying and inspection under the Public Records Act.

(E) Failure to file the list within the time required pursuant to subdivision (A) of this subdivision (2) shall be an unfair labor practice and grounds for the Vermont Labor Relations Board to set aside the results of the referendum if an unfair labor practice charge is filed not more than 10 business days after the referendum.

* * *

Sec. 3. 21 V.S.A. § 1724 is amended to read:

§ 1724. CERTIFICATION PROCEDURE

(a)(1) A petition may be filed with the Board, in accordance with regulations prescribed rules adopted by the Board:

(1)(A) By an employee or group of employees, or any individual or employee organization purporting to act in their behalf, alleging that not less than 30 percent of the employees, wish to form a bargaining unit and be represented for collective bargaining, or assert that the individual or employee organization currently certified as bargaining agent is no longer supported by at least 51 percent of the employees in the bargaining unit, or that not less than 51 percent of the employees now included in an approved bargaining unit wish to form a separate bargaining unit under Board criteria for purposes of collective bargaining.

(2)(B) By the employer alleging that the presently certified bargaining unit is no longer appropriate under Board criteria.

(2)(A)(i) An employee or group of employees, or any individual or employee organization purporting to act in their behalf, that is seeking to determine interest in the formation of a bargaining unit or representation for collective bargaining may petition the employer and the Board for a list of the employees in the proposed bargaining unit.

(ii) An employee or group of employees, or any person purporting to act on their behalf, that is seeking to demonstrate that the individual or employee organization currently certified as bargaining agent is no longer supported by at least 51 percent of the employees in the bargaining unit shall not be entitled to obtain a list of the employees in the proposed bargaining unit pursuant to this subdivision (a)(2).

(B) Within two business days after receiving the petition, the employer shall file with the Board and the employee or group of employees, or the individual or employee organization purporting to act in their behalf, a list of the names and job titles of the employees in the proposed bargaining unit. To the extent possible, the list of employees shall be in alphabetical order by last name and provided in electronic format.

(b)(1) The Board, a Board member thereof, or a person or persons designated by the Board shall investigate the petition, and do one of the following:

(A) Determine that a sufficient showing of interest has been made by the petition.

~~(4)(B)(i) If it finds reasonable cause to believe that a question of unit determination or representation exists, an appropriate hearing shall be scheduled before the Board upon due notice. Written notice of the hearing shall be mailed by certified mail to the parties named in the petition not less than 14 calendar days before the hearing. the Board shall schedule a hearing to be held before the Board not more than eight days after the petition was filed with the Board unless:~~

(I) the parties named in the petition mutually agree to extend the time for the hearing; or

(II) the Board determines that the time for the hearing must be extended due to an insufficient number of Board members being available to hold a hearing or the Executive Director of the Board is unavailable due to leave.

(ii)(I) Once scheduled, the date of the hearing shall not be subject to change except for good cause as determined by the Board.

(II) The time for a hearing shall not be extended pursuant to subdivisions (d)(1)(B)(i)(I) or (II) of this section for more than an additional 30 days.

(iii) Hearing procedure and notification of the results thereof of the hearing shall be in accordance with rules ~~prescribed~~ adopted by the Board or, except that the parties shall not be permitted to submit briefs to the Board after the conclusion of the hearing unless the parties mutually agree to do so and the Board consents.

(iv) The Board shall issue its decision not more than two business days after the hearing or 10 days after the petition was submitted, whichever is later.

(2)(C) ~~dismiss the petition, based upon the~~ If the Board finds an absence of substantive evidence it shall dismiss the petition.

(2) Upon request, the results of the investigation shall be made available by the Board to the petitioners and all intervenors, if any, including the duly certified bargaining representative as soon as practicable after the investigation is completed.

* * *

(e)(1)(A) In determining the representation of municipal employees in a collective bargaining unit, the Board shall conduct a an election by secret ballot of the employees and certify the results to the interested parties and to the employer. The election shall be held not more than 21 days after the petition is filed with the Board.

(B) The time to conduct the election may be extended by:

(i) mutual agreement of the parties; or

(ii) the Board due to a lack of staff available to conduct the election or other circumstances that make it impracticable for the Board to conduct the election within 21 days after the petition is filed.

(C) The Board shall not hold a hearing to resolve any disputes related to the membership of the bargaining unit until after the election unless the parties mutually agree to extend the time for the election for the purpose of resolving those issues.

(2) The original ballot shall ~~be so prepared as to~~ permit a vote against representation by anyone named on the ballot. No representative will be certified with less than a 51 percent affirmative vote of all votes cast. ~~In the case where~~ If it is asserted that the certified bargaining agent is no longer supported by at least 51 percent of the employees in the bargaining unit and

there is no attempt to seek the election of another employee organization or individual as bargaining representative, there shall be at least 51 percent negative vote of all votes cast to decertify the existing bargaining agent.

(A) Unless the employer and the individual or labor organization seeking to represent the bargaining unit agree to a longer period, the employer shall file with the Board and the individual or labor organization that will be named on the ballot a list of the employees in the bargaining unit within two business days after:

(i) the Board determines that substantial interest exists and a secret ballot election shall be conducted; or

(ii) the parties stipulate to the composition of the bargaining unit.

(B) The list shall include, as appropriate, each employee's name, work location, shift, job classification, and contact information. As used in this subdivision (2), "contact information" includes an employee's home address, personal e-mail address, and home and personal cellular telephone numbers.

(C) To the extent possible, the list of employees shall be in alphabetical order by last name and provided in electronic format.

(D) The list shall be kept confidential by the employer and the individual or labor organization seeking to represent the bargaining unit and shall be exempt from copying and inspection under the Public Records Act.

(E) Failure to file the list within the time required pursuant to subdivision (A) of this subdivision (2) shall be grounds for the Board to set aside the results of the election if an objection is filed within the time required pursuant to the Board's rules.

* * *

* * * Automatic Membership Dues Deduction * * *

Sec. 4. 3 V.S.A. § 903 is amended to read:

§ 903. EMPLOYEES' RIGHTS AND DUTIES; PROHIBITED ACTS

* * *

(e) Employees who are members of the employee organization shall have the right to automatic membership dues deductions. Upon receipt of a signed authorization to commence automatic membership dues deductions from an employee, the employer shall, as soon as practicable and in any event, no later than 30 calendar days after receiving the authorization, commence withholding from the employee's wages the amount of membership dues certified by the

employee organization. The employer shall transmit the amount withheld to the employee organization on the same day as the employee is paid. Nothing in this subsection shall be construed to require a member of an employee organization to participate in automatic dues deduction.

Sec. 5. 3 V.S.A. § 1012 is amended to read:

§ 1012. EMPLOYEES' RIGHTS AND DUTIES; PROHIBITED ACTS

* * *

(e) Employees who are members of the employee organization shall have the right to automatic membership dues deductions. Upon receipt of a signed authorization to commence automatic membership dues deductions from an employee, the employer shall, as soon as practicable and in any event, no later than 30 calendar days after receiving the authorization, commence withholding from the employee's wages the amount of membership dues certified by the employee organization. The employer shall transmit the amount withheld to the employee organization on the same day as the employee is paid. Nothing in this subsection shall be construed to require a member of an employee organization to participate in automatic dues deduction.

Sec. 6. 16 V.S.A. § 1982 is amended to read:

§ 1982. RIGHTS

* * *

(f) A teacher or administrator who is a member of the teachers' or administrators' organization shall have the right to automatic membership dues deductions. Upon receipt of a signed authorization to commence automatic membership dues deductions from a teacher or administrator, the school board shall, as soon as practicable and in any event, no later than 30 calendar days after receiving the authorization, commence withholding from the teacher's or administrator's wages the amount of membership dues certified by the teachers' or administrators' organization. The school board shall transmit the amount withheld to the teachers' or administrators' organization on the same day as the teacher or administrator is paid. Nothing in this subsection shall be construed to require a member of a teachers' or administrators' organization to participate in automatic dues deduction.

Sec. 7. 21 V.S.A. § 1645 is added to read:

§ 1645. AUTOMATIC MEMBERSHIP DUES DEDUCTION

Independent direct support providers who are members of the labor organization shall have the right to automatic membership dues deductions. Upon receipt of a signed authorization to commence automatic membership

dues deductions from an independent direct support provider, the State shall, as soon as practicable and in any event, no later than 30 calendar days after receiving the authorization, commence withholding from the independent direct support provider's wages the amount of membership dues certified by the labor organization. The State shall transmit the amount withheld to the labor organization on the same day as the independent direct support provider is paid. Nothing in this section shall be construed to require a member of a labor organization to participate in automatic dues deduction.

Sec. 8. 21 V.S.A. § 1737 is added to read:

§ 1737. AUTOMATIC MEMBERSHIP DUES DEDUCTION

Employees who are members of the employee organization shall have the right to automatic membership dues deductions. Upon receipt of a signed authorization to commence automatic membership dues deductions from an employee, the employer shall, as soon as practicable and in any event, no later than 30 calendar days after receiving the authorization, commence withholding from the employee's wages the amount of membership dues certified by the employee organization. The employer shall transmit the amount withheld to the employee organization on the same day as the employee is paid. Nothing in this section shall be construed to require a member of an employee organization to participate in automatic dues deduction.

Sec. 9. 33 V.S.A. § 3618 is added to read:

§ 3618. AUTOMATIC MEMBERSHIP DUES DEDUCTION

Early care and education providers who are members of the labor organization shall have the right to automatic membership dues deductions. Upon receipt of a signed authorization to commence automatic membership dues deductions from an early care and education provider, the State shall, as soon as practicable and in any event, no later than 30 calendar days after receiving the authorization, commence withholding from the subsidies paid to the early care and education provider the amount of membership dues certified by the labor organization. The State shall transmit the amount withheld to the labor organization on the same day as the subsidies are paid to the early care and education provider. Nothing in this section shall be construed to require a member of a labor organization to participate in automatic dues deduction.

* * * Access to Employees in Bargaining Unit * * *

Sec. 10. 3 V.S.A. § 909 is added to read:

§ 909. ACCESS TO NEW EMPLOYEES IN BARGAINING UNIT

(a) An employer shall provide the employee organization that is the exclusive representative of the employees in a bargaining unit with an opportunity to meet with each newly hired employee in the bargaining unit to present information about the employee organization.

(b)(1) The meeting shall occur during the new employee's orientation or, if the employer does not conduct an orientation for newly hired employees, within 30 calendar days from the date on which the employee was hired.

(2) If the meeting is not held during the new employee's orientation, it shall be held during the new employee's regular work hours and at his or her regular worksite or a location mutually agreed to by the employer and the employee organization.

(3) The employee organization shall be permitted to meet with the employee for not less than 60 minutes.

(4) The employee shall be paid for attending the meeting at his or her regular rate of pay.

(c)(1) Within 10 days after hiring a new employee in a bargaining unit, the employer shall provide the employee organization with his or her name, job title, worksite location, work telephone number and e-mail address, home address, personal e-mail address, home and personal cellular telephone numbers, and date of hire.

(2) The employee's home address, personal e-mail address, and home and personal cellular telephone numbers shall be kept confidential by the employer and the employee organization and shall be exempt from copying and inspection under the Public Records Act.

(d) The employer shall provide the employee organization with not less than 10 days' notice of an orientation for newly hired employees in a bargaining unit.

Sec. 11. 3 V.S.A. § 1022 is added to read:

§ 1022. ACCESS TO NEW EMPLOYEES IN BARGAINING UNIT

(a) An employer shall provide the employee organization that is the exclusive representative of the employees in a bargaining unit with an opportunity to meet with each newly hired employee in the bargaining unit to present information about the employee organization.

(b)(1) The meeting shall occur during the new employee's orientation or, if the employer does not conduct an orientation for newly hired employees, within 30 calendar days from the date on which the employee was hired.

(2) If the meeting is not held during the new employee's orientation, it shall be held during the new employee's regular work hours and at his or her regular worksite or a location mutually agreed to by the employer and the employee organization.

(3) The employee organization shall be permitted to meet with the employee for not less than 60 minutes.

(4) The employee shall be paid for attending the meeting at his or her regular rate of pay.

(c)(1) Within 10 days after hiring a new employee in a bargaining unit, the employer shall provide the employee organization with his or her name, job title, worksite location, work telephone number and e-mail address, home address, personal e-mail address, home and personal cellular telephone numbers, and date of hire.

(2) The employee's home address, personal e-mail address, and home and personal cellular telephone numbers shall be kept confidential by the employer and the employee organization and shall be exempt from copying and inspection under the Public Records Act.

(d) The employer shall provide the employee organization with not less than 10 days' notice of an orientation for newly hired employees in a bargaining unit.

Sec. 12. 16 V.S.A. 1984 is added to read:

§ 1984. ACCESS TO NEW TEACHERS OR ADMINISTRATORS IN
BARGAINING UNIT

(a) A school board shall provide a teachers' or administrators' organization that is the exclusive representative of the teachers or administrators in a bargaining unit with an opportunity to meet with each newly hired teacher or administrator in the bargaining unit to present information about the teachers' or administrators' organization.

(b)(1) The meeting shall occur during the new teacher's or administrator's orientation or, if the school board does not conduct an orientation for newly hired teachers or administrators, within 30 calendar days from the date on which the teacher or administrator was hired.

(2) If the meeting is not held during the new teacher's or administrator's orientation, it shall be held during the new teacher's or administrator's regular work hours and at his or her regular worksite or a location mutually agreed to by the school board and the teacher's or administrator's organization.

(3) The employee organization shall be permitted to meet with the employee for not less than 60 minutes.

(4) The teacher or administrator shall be paid for attending the meeting at his or her regular rate of pay.

(c)(1) Within 10 days after hiring a new teacher or administrator, the school board shall provide the teacher's or administrator's organization, as appropriate, with his or her name, job title, worksite location, work telephone number and e-mail address, home address, personal e-mail address, home and personal cellular telephone numbers, and date of hire.

(2) The teacher's or administrator's home address, personal e-mail address, and home and personal cellular telephone numbers shall be kept confidential by the employer and the teacher's or administrator's organization and shall be exempt from copying and inspection under the Public Records Act.

(d) The school board shall provide the teacher's or administrator's organization with not less than 10 days' notice of an orientation for newly hired teachers or administrators in its bargaining unit.

Sec. 13. 21 V.S.A. § 1738 is added to read:

§ 1738. ACCESS TO NEW EMPLOYEES IN BARGAINING UNIT

(a) An employer shall provide the employee organization that is the exclusive representative of the employees in a bargaining unit with an opportunity to meet with each newly hired employee in the bargaining unit to present information about the employee organization.

(b)(1) The meeting shall occur during the new employee's orientation or, if the employer does not conduct an orientation for newly hired employees, within 30 calendar days from the date on which the employee was hired.

(2) If the meeting is not held during the new employee's orientation, it shall be held during the new employee's regular work hours and at his or her regular worksite or a location mutually agreed to by the employer and the employee organization.

(3) The employee organization shall be permitted to meet with the employee for not less than 60 minutes.

(4) The employee shall be paid for attending the meeting at his or her regular rate of pay.

(c)(1) Within 10 days after hiring a new employee in a bargaining unit, the employer shall provide the employee organization with his or her name, job title, worksite location, work telephone number and e-mail address, home address, personal e-mail address, home and personal cellular telephone numbers, and date of hire.

(2) The employee's home address, personal e-mail address, and home and personal cellular telephone numbers shall be kept confidential by the employer and the employee organization and shall be exempt from copying and inspection under the Public Records Act.

(d) The employer shall provide the employee organization with not less than 10 days' notice of an orientation for newly hired employees in a bargaining unit.

* * * Effective Date * * *

Sec. 14. EFFECTIVE DATE

This act shall take effect on July 1, 2020.

(Committee vote: 5-0-0)

S. 256.

An act relating to creating the New Vermont Employee Incentive Program.

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

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

* * * New Worker Recruitment * * *

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

CHAPTER 1. ECONOMIC DEVELOPMENT

* * *

§ 4. NEW VERMONT EMPLOYEE INCENTIVE PROGRAM

(a) The Agency of Commerce and Community Development shall design and implement a New Vermont Employee Incentive Program to award incentive grants to qualifying new employees as provided in this section and subject to the policies and procedures the Agency adopts to implement the Program.

(b) Incentives. A qualifying new employee may be eligible for a grant under the Program for qualifying expenses, subject to the following:

(1) A base grant shall not exceed \$5,000.00.

(2) The Agency may award an enhanced grant, which shall not exceed \$7,500.00, for a qualifying new employee who becomes a resident in a labor market area in this State in which:

(A) the average annual unemployment rate in the labor market area exceeds the average annual unemployment rate in the State; or

(B) the average annual wage in the State exceeds the annual average wage in the labor market area.

(c) The Agency shall:

(1) adopt procedures for implementing the Program, which shall include a simple certification process to certify qualifying new employees and qualifying expenses;

(2) promote awareness of the Program, including through coordination with relevant trade groups and by integration into the Agency's economic development marketing campaigns;

(3) award grants to qualifying new employees on a first-come, first-served basis beginning on January 1, 2021, subject to available funding; and

(4) adopt measurable goals, performance measures, and an audit strategy to assess the utilization and performance of the Program.

(d) Annually, on or before December 15, the Agency shall submit a report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs concerning the implementation of this section, including:

(1) a description of the policies and procedures adopted to implement the Program;

(2) the promotion and marketing of the Program; and

(3) an analysis of the utilization and performance of the Program.

(e) As used in this section:

(1) “New relocating worker” means an individual who on or after January 1, 2021:

(A) becomes a full-time resident of this State;

(B) becomes a full-time employee of a business domiciled or authorized to do business in this State;

(C)(i) is employed in an occupation identified by the Department of Labor in its 2016–2026 Long Term Occupational Projections as one of the top occupations at each level of educational attainment typical for entry; or

(ii) the Agency determines should otherwise receive an incentive grant under the Program because the worker possesses exceptional education, skills, or training or due to other extraordinary circumstances; and

(D) receives gross wages for the position that equal or exceed:

(i) 160 percent of the State minimum wage; or

(ii) if the employer is located in a labor market area in which the average annual unemployment rate is higher than the average annual unemployment rate for the State, 140 percent of the State minimum wage.

(2) “New remote worker” means an individual who:

(A) is a full-time employee of a business with its domicile or primary place of business within or outside Vermont;

(B) becomes a full-time resident of this State on or after January 1, 2021; and

(C) performs the majority of his or her employment duties remotely from a home office or a co-working space located in this State.

(3) “Qualifying expenses” means:

(A) for a new relocating worker, the actual costs the new relocating worker incurs for one or more of the following:

(i) relocation expenses, which may include closing costs for a primary residence, rental security deposit, first month’s rent payment, and other expenses established in Agency guidelines; and

(ii) expenses necessary for a new worker to perform his or her employment duties, including connectivity costs, specialized tools and equipment, and other expenses established in Agency guidelines.

(B) for a new remote worker, the actual costs the new remote worker incurs for one or more of the following that are necessary to perform his or her employment duties:

- (i) relocation to this State;
- (ii) computer software and hardware;
- (iii) broadband access or upgrade; and
- (iv) membership in a co-working or similar space.

(4) “Qualifying new employee” means:

- (A) a new relocating worker; or
- (B) a new remote worker.

* * *

Sec. 2. IMPLEMENTATION; FUNDING; TRANSITION

(a) It is the intent of the General Assembly to consolidate into a single program:

(1) the funding and activities of the New Remote Worker Grant Program created in 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15; and

(2) the funding and activities of the New Worker Relocation Incentive Program created by 2019 Acts and Resolves No. 80, Sec. 12.

(b) Consistent with subsection (a) of this section, the Agency of Commerce and Community Development may use any remaining funds appropriated to it for the New Remote Worker Grant Program and the New Worker Relocation Incentive Program to:

(1) award incentives to new remote workers and new workers who qualify for an incentive under either of those programs until January 1, 2021; and

(2) award incentives to qualifying employees under the New Vermont Employee Incentive Program created by this act on or after January 1, 2021.

Sec. 3. REPEAL

The following are repealed:

(1) 2018 Acts and Resolves No. 197, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 15 (New Remote Worker Grant Program); and

(2) 2019 Acts and Resolves No. 80, Sec. 12 (New Worker Relocation Incentive Program).

* * * Project-Based Tax Increment Financing Projects * * *

Sec. 4. 24 V.S.A. 1892(d) is amended to read:

(d) The following municipalities have been authorized to use education tax increment financing for a tax increment financing district:

- (1) the City of Burlington, Downtown;
- (2) the City of Burlington, Waterfront;
- (3) ~~the Town of Milton, North and South~~ Town of Bennington;
- (4) ~~the City of Newport~~ City of Montpelier;
- (5) the City of Winooski;
- (6) ~~the Town of Colchester~~;
- (7) ~~the Town of Hartford~~;
- (8)(7) the City of St. Albans;
- (9)(8) the City of Barre;
- (10)(9) the Town of Milton, Town Core; and
- (11)(10) the City of South Burlington.

Sec. 5. TAX INCREMENT FINANCING PROJECT DEVELOPMENT;
PILOT PROGRAM

(a) Definitions. As used in this section:

(1) “Committed” means pledged and appropriated for the purpose of the current and future payment of tax increment financing and related costs as defined in this section.

(2) “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 and related costs for the approved project, only if authorized by the legal voters of the municipality in accordance with 24 V.S.A. § 1894. Payment for eligible related costs may also include direct payment by the municipality using the district increment. However, such anticipated payments shall be included in the vote by the legal voters of the municipality in accordance with subsection (e) of this section. 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 municipality’s first

incurrence of debt. A municipality that uses a bond anticipation note during the third or sixth year that a municipality may incur debt pursuant to subsection (e) of this section shall incur all permanent financing not more than one year after issuing the bond anticipation note.

(3) “Improvements” means the installation, new construction, or reconstruction of infrastructure that will serve a public purpose, 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 on which the first debt is incurred.

(4) “Legislative body” means the mayor and alderboard, the city council, the selectboard, and the president and trustees of an incorporated village, as appropriate.

(5) “Municipality” means a city, town, or incorporated village.

(6) “Original taxable value” means the total valuation as determined in accordance with 32 V.S.A. chapter 129 of all taxable real property located within the project as of the creation date, provided that no parcel within the project shall be divided or bisected.

(7) “Project” means public improvements, as defined in subdivision (3) of this subsection (a), that meet the criteria set forth in subdivision (h)(2) of this section, with a total debt ceiling, including related costs, and principal and interest payments, of not more than \$1,500,000.00.

(8) “Related costs” means expenses incurred and paid by the municipality, exclusive of the actual cost of constructing and financing improvements, that are directly related to the creation and implementation of the project, including reimbursement of sums previously advanced by the municipality for those purposes. Related costs may not include direct municipal expenses such as departmental or personnel costs.

(b) Pilot Program. Beginning January 1, 2021 and ending December 31, 2026, the Vermont Economic Progress Council is authorized to approve not more than 15 tax increment financing projects, provided that there shall be not more than one project per municipality and not more than five projects approved per year.

(c) General authority. Under the pilot program established in subsection (b) of this section, a municipality, upon approval of its legislative body, may apply to the Vermont Economic Progress Council pursuant to the approval process set forth in subsection (h) of this section to use tax increment financing for an individual project located within or serving one or more active

designations approved by the Vermont Downtown Board under 24 V.S.A. chapter 76A or located within an industrial park as defined in 10 V.S.A. § 212(7).

(d) Eligibility.

(1) A municipality is only authorized to apply for a project under this section if the project will serve one or more active designations approved by the Vermont Downtown Development Board under 24 V.S.A. chapter 76A or located within an industrial park as defined in 10 V.S.A. § 212(7).

(2) A municipality with an approved tax increment financing district as set forth in 24 V.S.A. 1892(d) is not authorized to apply for a project under this section.

(e) Incurring indebtedness.

(1) A municipality approved under the process set forth in subsection (h) of this section may incur indebtedness against revenues to provide funding to pay for improvements and related costs for tax increment financing project development.

(2) Notwithstanding any provision of any municipal charter, the municipality shall only have one authorizing vote to incur debt through one instance of borrowing to finance or otherwise pay for the tax increment financing project improvements and related costs. The municipality shall be authorized to incur indebtedness only after the legal voters of the municipality, by a majority vote of all voters present and voting on the question at a special or annual municipal meeting duly warned for the purpose, authorize the legislative body to pledge the credit of the municipality, borrow, or otherwise secure the debt for the specific purposes so warned.

(3) Any indebtedness shall be incurred within three years from the date of approval by the Vermont Economic Progress Council, unless the Vermont Economic Progress Council grants an extension of an additional three years pursuant to the substantial change process set forth in the 2015 TIF Rule; provided, however, that an updated plan is submitted prior to the three-year termination date of the project.

(f) Original Taxable Value. As of the date the project is approved by the Vermont Economic Progress Council, 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 project 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 project has increased or decreased relative to the original taxable value.

(g) Tax increments.

(1) In each year following the approval of the project, the lister or assessor shall include no more than the original taxable value of the real property in the assessed valuation upon which the treasurer computes the rates of all taxes levied by the municipality and every other taxing district in which the project is situated, but the treasurer shall extend all rates so determined against the entire assessed valuation of real property for that year. In each year for which the assessed valuation exceeds the original taxable value, the municipality shall hold apart, rather than remit to the taxing districts, that proportion of all taxes paid that year on the real property within the project which the excess valuation bears to the total assessed valuation. The amount held apart each year is the “tax increment” for that year. No more than the percentages established pursuant to subsection (i) of this section of the municipal and State education tax increments received with respect to the project and committed for the payment for financing for improvements and related costs shall be segregated by the municipality in a special tax increment financing project account and in its official books and records until all capital indebtedness of the project has been fully paid. The final payment shall be reported to the treasurer, who shall thereafter include the entire assessed valuation of the project in the assessed valuations upon which municipal and other tax rates are computed and extended and thereafter no taxes from the project shall be deposited in the project’s tax increment financing account.

(2) Notwithstanding any charter provision or other provision, all property taxes assessed within a project shall be subject to the provision of subdivision (1) of this section. Special assessments levied under 24 V.S.A. chapters 76A or 87 or under a municipal charter shall not be considered property taxes for the purpose of this section if the proceeds are used exclusively for operating expenses related to properties within the project and not for improvements within the district, as defined in subdivision (a)(3) of this section.

(3) Amounts held apart under subdivision (1) of this subsection (g) shall only be used for financing and related costs as defined in subsection (a) of this section.

(h) Approval process. The Vermont Economic Progress Council shall only approve a municipality’s application for a tax increment financing project development if:

(1) the proposed infrastructure improvements and the projected development or redevelopment are compatible with confirmed municipal and regional development plans; the project has clear local and regional significance for employment, housing, or transportation improvements; and

(2) the development clearly requires substantial public investment over and above the normal municipal operating or bonded debt expenditures and the application meets one of the following four criteria:

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

(B) The project will affect the remediation and redevelopment of a brownfield located within 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.

(C) The development will include at least one entirely new business or business operation or expansion of an existing business within the project, and this business will provide new, quality, full-time jobs that meet or exceed the prevailing wage for the region as reported by the Department of Labor.

(D) The development will enhance transportation by creating improved traffic patterns and flow or creating or improving public transportation systems.

(i) Use of tax increment.

(1) Education property tax increment. For only debt incurred within the period permitted under subdivision (e)(3) of this section after approval of the project, up to 70 percent of the education tax increment may be retained for up to 20 years, beginning with the education tax increment generated the year in which the first debt incurred for the project financed in whole or in part with incremental education property tax revenue. Upon incurring the first debt, a municipality shall notify the Department of Taxes and the Vermont Economic Progress Council of the beginning of the 20-year retention period of the education tax increment.

(2) Use of the municipal property tax increment. For only debt incurred within the period permitted under subdivision (e)(3) of this section after approval of the project, not less than 85 percent of the municipal tax increment shall be retained to service the debt, beginning the first year in which debt is incurred, pursuant to subdivision (1) of this subsection.

(3) The Vermont Economic Progress Council shall determine there is a nexus between the improvement and the expected development and redevelopment for the project and expected outcomes.

(j) Distribution. Of the municipal and education tax increments received in any tax year that exceed the amounts committed for the payment of the financing for improvements and related costs for the project, equal portions of each increment may be retained for the following purposes: prepayment of principal and interest on the financing, placed in a special account required by subdivision (g)(1) of this section and used for future financing payments, or used for defeasance of the financing. Any remaining portion of the excess municipal tax increment shall be distributed to the city, town, or village budget, in the proportion that each budget bears to the combined total of the budgets, unless otherwise negotiated by the city, town, or village, and any remaining portion of the excess education tax increment shall be distributed to the Education Fund.

(k) Information Reporting. Every municipality with an approved project pursuant to this section shall:

(1) Develop a system, segregated for the project, to identify, collect, and maintain all data and information necessary to fulfill the reporting requirements of this section, including performance measures.

(2) Throughout the year, as required by events, provide notification to the Vermont Economic Progress Council and the Department of Taxes regarding any tax increment financing development project debt obligations, public votes, or votes by the municipal legislative body immediately following such obligation or vote on a form prescribed by the Council, including copies of public notices, agendas, minutes, vote tally, and a copy of the information provided to the public in accordance with 24 V.S.A. § 1894(i);

(3) Annually:

(A) Ensure that the tax increment financing project account required by subdivision (g)(1) is subject to the annual audit prescribed in subsection (m) of this section. Procedures must include verification of the original taxable value and annual and total municipal and education tax increments generated, expenditures for debt and related costs, and current balance.

(B) On or before February 15 of each year, on a form prescribed by the Council, submit an annual report to the Vermont Economic Progress Council and the Department of Taxes, including the information required by subdivision (2) of this section if not already submitted during the year, all information required by subdivision (A) of this subdivision (3), and the

information required by 32 V.S.A. § 5404a(i), including performance measures and any other information required by the Council or the Department of Taxes.

(l) Annual report. The Vermont Economic Progress Council and the Department of Taxes shall submit an annual report to the Senate Committees on Economic Development, Housing and General Affairs and on Finance and the House Committees on Commerce and Economic Development and on Ways and Means on or before April 1 each year. The report shall include the date of approval, a description of the project, the original taxable value of the property subject to the project development, the scope and value of projected and actual improvements and developments, projected and actual incremental revenue amounts, and division of the increment revenue between project debt, the Education Fund, the special account required by subdivision (g)(1) and the municipal General Fund, projected and actual financing, and a set of performance measures developed by the Vermont Economic Progress Council, which may include outcomes related to the criteria for which the municipality applied and the amount of infrastructure work performed by Vermont firms.

(m) Audit; financial reports. Annually, until the year following the end of the period for retention of education tax increment, a municipality with an approved project under this section shall:

(1) by January 1, submit an annual report to the Vermont Economic Progress Council, which shall provide sufficient information for the Vermont Economic Progress Council to prepare its report required by subsection (i) of this section; and

(2) by April 1, ensure that the project is subject to the annual audit prescribed in 24 V.S.A. §§ 1681 or 1690. In the event that the audit is only subject to the audit under 24 V.S.A. § 1681, the Vermont Economic Progress Council shall ensure a process is in place to subject the project to an independent audit. Procedures for the audit must include verification of the original taxable value and annual and total municipal and education tax increments generated, expenditures for debt and related costs, and current balance.

(n) Authority to issue decisions.

(1) The Secretary of Commerce and Community Development, after reasonable notice to a municipality and an opportunity for a hearing, is authorized to issue decisions to a municipality on questions and inquiries concerning the administration of projects, statutes, rules, noncompliance with this section, and any instances of noncompliance identified in audit reports conducted pursuant to subsection (m) of this section.

(2) The Vermont Economic Progress Council shall prepare recommendations for the Secretary prior to the issuance of a decision. As appropriate, the Council may prepare such recommendations in consultation with the Commissioner of Taxes, the Attorney General, and the State Treasurer. In preparing recommendations, the Council shall provide a municipality with a reasonable opportunity to submit written information in support of its position. The Secretary shall review the recommendations of the Council and issue a final written decision on each matter within 60 days of the receipt of the recommendations. The Secretary may permit an appeal to be taken by any party to a Superior Court for determination of questions of law in the same manner as the Supreme Court may by rule provide for appeals before final judgment from a Superior Court before issuing a final decision.

(o) The Vermont Economic Progress Council is authorized to adopt policies that are consistent with the 2015 TIF Rule to implement this section.

* * * Vermont Employment Growth Incentive Pilot Program * * *

Sec. 6. 32 V.S.A. § 3343 is added to read:

§ 3343. CAPITAL INVESTMENT CONVERTIBLE LOAN PROGRAM

(a) Creation. Within the Vermont Employment Growth Incentive Program there is created a Capital Investment Convertible Loan Program, the purpose of which is to offer an incentive to smaller businesses in the form of a convertible loan in order to upgrade facilities, machinery, and equipment and to increase total payroll.

(b) Requirements. Notwithstanding any provision of this chapter to the contrary:

(1) A business with 30 or fewer employees, which for purposes of this section includes the employees of any other business under common control, may apply for an incentive in the form of a convertible loan by submitting an application to the Council in the form and with the information the Council requires.

(2) For purposes of this section:

(A) An award period is three years.

(B) A qualifying job may include an existing position at the business that otherwise meets the definition in subdivision 3331(9) of this title.

(C) An application shall include a payroll performance requirement and a capital investment performance requirement.

(D) A business may participate in either the incentive program or the convertible loan program and shall not participate in both simultaneously, provided that a business that otherwise qualifies for an enhanced incentive under sections 3334 or 3335 of this title may receive the benefits of the enhancement.

(3) If the Council approves the application for an award, the Council shall recommend the application to the Vermont Economic Development Authority and the business must submit a loan application to the Authority for its review and approval pursuant to underwriting standards it adopts for that purpose.

(4)(A) If the Authority approves the loan application, notwithstanding any provision of 10 V.S.A. chapter 12 to the contrary, it shall issue a loan up to the total value of the incentives approved for the award period.

(B) The business is required to make monthly, interest-only payments during the award period.

(C) The interest rate shall not exceed one percent.

(5) If the Authority does not approve the loan application or approves a loan for less than the total value of the incentives, the business may withdraw its loan application and return to the Council to amend or withdraw its application.

(6) A loan shall convert to a grant at the end of the award period if the business remains in good standing on the loan and:

(A) the Authority verifies that the business meets or exceeds its capital investment requirement; and

(B) the Department of Taxes verifies to the Authority that the business meets or exceeds its payroll performance requirement.

(7) If the business satisfies the criteria in subdivision (5) of this subsection, the Department shall pay to the Authority the balance of the loan principal.

(8) If the business meets its payroll performance requirement, but does not meet its capital investment requirement:

(A) a percentage of the loan shall convert to a grant equal to the percentage of the capital investment the business made during the award period relative to the capital investment performance requirement;

(B) the Department shall pay to the Authority an amount equal to the amount converted; and

(C) the business shall pay the balance of the principal and interest on terms specified in the loan agreement.

(9) If the business does not meet its payroll performance requirement, the loan does not convert and the business shall pay the balance of the principal and interest on terms specified in the loan agreement.

(c) Limitations.

(1) An incentive approved pursuant to this section shall not exceed \$150,000.

(2) Within the annual program cap established in section 3342 of this title, the Council may approve not more than \$1.5 million in incentives pursuant to this section in each calendar year.

Sec. 7. IMPLEMENTATION OF VEGI PILOT PROGRAMS; REPORT; STUDY; SUNSET

(a) The Vermont Economic Progress Council, the Department of Taxes, and the Vermont Economic Development Authority shall collaborate to adopt written policies and procedures governing the implementation of 32 V.S.A. § 3343, which shall include policies and procedures for determining background growth rates in payroll.

(b) The Council shall not accept or approve an application pursuant to 32 V.S.A. § 3343 after December 31, 2024.

(c) On or before January 15, 2021 and through the duration of the program, the Council shall report to the House Committees on Commerce and Economic Development and on Ways and Means and to the Senate Committees on Economic Development, Housing and General Affairs and on Finance, as follows:

(1) The Council shall provide the written policies and procedures adopted pursuant to subsection (a) of this section.

(2) The Council shall provide information concerning the implementation and effectiveness of 32 V.S.A. § 3343, including information on the number and status of applications, projected fiscal benefit to the State, and actual fiscal benefit to the State realized.

(3) The Council, in coordination with the Agency of Commerce and Community Development, shall provide recommendations concerning the design and implementation of an additional incentive program within the VEGI program, the purpose of which is:

(A) to incentivize large, anchor businesses throughout Vermont to make significant capital investments in their Vermont facilities; and

(B) appropriately recognize and account for:

(i) the economic benefits that large employers currently provide, particularly in rural areas of the State;

(ii) the negative impacts that occur when such employers diminish their presence or withdraw from the State; and

(iii) the economic benefits to the State that arise from significant capital investments and accompanying growth in payroll and jobs at existing facilities.

Sec. 8. VERMONT EMPLOYMENT GROWTH INCENTIVE; STUDY

(a) On or before January 15, 2021, the Vermont Economic Progress Council shall provide to the House Committees on Commerce and Economic Development and on Ways and Means and to the Senate Committees on Economic Development, Housing and General Affairs and on Finance a report based on an independent third-party review of the Vermont Employment Growth Incentive Program that addresses:

(1) the internal controls and methods used to evaluate whether the program is working as intended;

(2) the procedures used to select, vet, and approve participants and projects;

(3) the controls and due diligence surrounding the application of the “but for” test;

(4) recommendations on possible alternatives to the “but for” test that may be used to qualify a business to participate in the Program;

(5) the specific outcomes of the Program in each year, including the net revenue gain to the State and the net increase in jobs, payroll, and capital investment;

(6) the procedures and controls for measuring and verifying those Program outcomes; and

(7) any other issues that arise during the independent review of the Program.

* * * Downtown and Village Center Tax Credit * * *

Sec. 9. 32 V.S.A. § 5930ee is amended to read:

§ 5930ee. LIMITATIONS

Beginning in fiscal year 2010 and thereafter, the State Board may award tax credits to all qualified applicants under this subchapter, provided that:

(1) the total amount of tax credits awarded annually, together with sales tax reallocated under section 9819 of this title, does not exceed \$2,600,000.00 \$4,000,000.00;

* * *

* * * Appropriations * * *

Sec. 10. APPROPRIATIONS

In fiscal year 2021 the following amounts are appropriated from the General Fund as follows:

(1) \$1,000,000 to the Secretary of State to complete the work of the steering committee created in 2018 Acts and Resolves No. 196, Sec. 1, as amended by 2019 Acts and Resolves No. 80, Sec. 13, to design and implement a one-stop business portal for businesses, entrepreneurs, and citizens to provide information about starting and operating a business in Vermont.

(2) \$600,000 to the Agency of Commerce and Community Development to support Vermont businesses seeking to participate in the federal Small Business Innovation Research program:

(A) \$200,000 to contract with one or more technical service providers to assist businesses in applying for grants; and

(B) \$400,000 to provide State-funded matching grants of not more than 50 percent of a federal SBIR Phase I or II grant, not to exceed \$50,000.00.

(3) \$250,000 to the Department of Tourism and Marketing for tourism marketing, economic development marketing, and to promote outdoor recreation, with priority given to economic development marketing.

(4) \$500,000 to the Vermont Economic Development Authority for interest rate subsidies, loan loss reserves, and the costs of administration of the Capital Investment Convertible Loan Program in 32 V.S.A. § 3343 for the duration of the pilot program.

* * * Effective Dates * * *

Sec. 11. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except that Sec. 3 (repeal of incentive programs) shall take effect on January 1, 2021.

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

An act relating to workforce and economic development.

(Committee vote: 5-0-0)

S. 285.

An act relating to the State House Artwork and Portrait Project Committee.

Reported favorably with recommendation of amendment by Senator Benning for the Committee on Institutions.

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

Sec. 1. 2 V.S.A. § 651 is amended to read:

§ 651. LEGISLATIVE ADVISORY COMMITTEE ON THE STATE HOUSE

(a) The Legislative Advisory Committee on the State House is created.

* * *

(d) The Committee shall meet at the State House at least one time ~~during the months of July and December~~ when the General Assembly is in session and at least one time when the General Assembly is not in session or at the call of the Chair. The Commissioner of Buildings and General Services shall keep minutes of the meetings and maintain a file thereof.

(e) The Committee shall have the assistance of the Office of Legislative Council.

Sec. 2. 2 V.S.A. § 653 is amended to read:

§ 653. FUNCTIONS

(a)(1) The Legislative Advisory Committee on the State House shall be consulted on all activities relating to the acquisition and care of paintings and historic artifacts and furnishings, and the refurbishing, renovation, preservation, and expansion of the building and its interior.

(2) The Legislative Advisory Committee on the State House shall develop a plan for the acquisition or commission of artwork for the State House collection that represents Vermont's diverse people and history, including diversity of gender, race, ethnicity, sexuality, and disability status.

* * *

**Sec. 3. STATE HOUSE ARTWORK AND PORTRAIT PROJECT;
LEGISLATIVE ADVISORY COMMITTEE ON THE STATE
HOUSE; REPORT**

(a) Intent. It is the intent of the General Assembly:

(1) to expand the State House artwork and portrait collection to represent the diverse stories of those who have significantly contributed to Vermont's history;

(2) to give special consideration to the State House as a place of employment for a diverse workforce and as an institution of public education for students and members of the general public; and

(3) that the State have a policy of including diverse leadership stories that reflect all of Vermont's history when acquiring or commissioning artistic representation for the State House art collection.

(b) Policy. It is the policy of the General Assembly that the State House art collection shall reflect:

(1) those who have served as leaders and have significantly contributed to the history of Vermont;

(2) those whose service relates to the State or the Abenaki Nation, the civil rights of Vermonters, the legislative process, or the operation of the State House;

(3) stories of significance to a community, a tribe, or historical moments that demonstrate the diverse nature of Vermont's people and history; or

(4) the natural landscapes and environmental features of the State of Vermont.

(c) Plan. Pursuant to 2 V.S.A. § 653, the Legislative Advisory Committee on the State House, in consultation with the State Curator, shall develop a plan for the acquisition or commission of artwork for the State House collection that incorporates the intent and policies described in subsections (a) and (b) of this section.

(d) Recommendations. The Committee, in consultation with the public and relevant experts, including Vermont historians, artists, and diverse community leaders, shall research and recommend significant historical Vermont leadership stories that warrant artistic inclusion in the State House art collection using the intent and policies described in subsections (a) and (b) of this section.

(e) Report. On or before December 15, 2020, the Committee shall submit a written report to the House Committee on Corrections and Institutions and the Senate Committee on Institutions with the plan and recommendations described in this section and any recommendations for legislative action.

Sec. 4. 29 V.S.A. § 154a is amended to read:

§ 154a. STATE CURATOR

(a) Creation. The position of State Curator is created within the Department of Buildings and General Services.

(b) Duties. The State Curator's responsibilities shall include:

(1) oversight of the general historic preservation of the State House, including maintaining the historical integrity of the State House and works of art in the State House;

(2) interpretation of the State House to the visiting public through exhibits, publications, and tours; and

(3) acquisition, management, and care of State collections of art and historic furnishings, provided that any works of art for the State House are acquired pursuant to the requirements of 2 V.S.A. § 653(a).

(c) Acquisition policy. In coordination with the Legislative Advisory Committee on the State House, and in accordance with the plan developed pursuant to 2 V.S.A. § 653, the State Curator shall adopt an acquisition policy that ensures that the acquisition of art for the State House reflects a diversity of artistic media and artists, the natural history of the State, and the diversity of the people and stories of Vermont throughout the history of the State.

(d) Interpretive plan. In coordination with the Friends of the Vermont State House and the Vermont Historical Society, the State Curator shall create an interpretive plan that tells the stories of the State House art collection through accessible written, multimedia, and oral means. The plan shall include appropriate and inclusive training of State House volunteers and staff.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

Reported favorably by Senator McCormack for the Committee on Appropriations.

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

(Committee vote: 6-0-1)

S. 294.

An act relating to expanding access to expungement and sealing of criminal history records.

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

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

Sec. 1. 13 V.S.A. § 5301 is amended to read:

§ 5301. DEFINITIONS

As used in this chapter:

* * *

(7) "Listed crime" means any of the following offenses:

- (A) stalking as defined in section 1062 of this title;
- (B) aggravated stalking as defined in subdivision 1063(a)(3) or (4)(b) of this title;
- (C) domestic assault as defined in section 1042 of this title;
- (D) first degree aggravated domestic assault as defined in section 1043 of this title;
- (E) second degree aggravated domestic assault as defined in section 1044 of this title;
- (F) sexual assault as defined in section 3252 of this title or its predecessor as it was defined in section 3201 or 3202 of this title;
- (G) aggravated sexual assault as defined in section 3253 of this title;
- (H) lewd or lascivious conduct as defined in section 2601 of this title;
- (I) lewd or lascivious conduct with a child as defined in section 2602 of this title;
- (J) murder as defined in section 2301 of this title;
- (K) aggravated murder as defined in section 2311 of this title;
- (L) manslaughter as defined in section 2304 of this title;
- (M) aggravated assault as defined in section 1024 of this title;

(N) assault and robbery with a dangerous weapon as defined in subsection 608(b) of this title;

(O) arson causing death as defined in section 501 of this title;

(P) assault and robbery causing bodily injury as defined in subsection 608(c) of this title;

(Q) maiming as defined in section 2701 of this title;

(R) kidnapping as defined in section 2405 of this title or its predecessor as it was defined in section 2401 of this title;

(S) unlawful restraint in the second degree as defined in section 2406 of this title;

(T) unlawful restraint in the first degree as defined in section 2407 of this title;

(U) recklessly endangering another person as defined in section 1025 of this title;

(V) violation of abuse prevention order as defined in section 1030 of this title, excluding violation of an abuse prevention order issued pursuant to 15 V.S.A. § 1104 (emergency relief) or 33 V.S.A. § 6936 (emergency relief);

(W) operating vehicle under the influence of alcohol or other substance with either death or serious bodily injury resulting as defined in 23 V.S.A. § 1210(f) and (g);

(X) ~~careless or~~ negligent or grossly negligent operation resulting in serious bodily injury or death as defined in 23 V.S.A. § 1091(b);

(Y) leaving the scene of an accident with serious bodily injury or death as defined in 23 V.S.A. § 1128(b) or (c);

(Z) burglary into an occupied dwelling as defined in subsection 1201(c) of this title;

(AA) the attempt to commit any of the offenses listed in this section;

(BB) abuse (section 1376 of this title), abuse by restraint (section 1377 of this title), neglect (section 1378 of this title), sexual abuse (section 1379 of this title), financial exploitation (section 1380 of this title), and exploitation of services (section 1381 of this title);

(CC) aggravated sexual assault of a child in violation of section 3253a of this title;

(DD) human trafficking in violation of section 2652 of this title; and

(EE) aggravated human trafficking in violation of section 2653 of this title.

Sec. 2. 13 V.S.A. § 7601 is amended to read:

§ 7601. DEFINITIONS

As used in this chapter:

(1) “Court” means the Criminal Division of the Superior Court.

(2) “Criminal history record” means all information documenting an individual’s contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

(3) “Predicate offense” means a criminal offense that can be used to enhance a sentence levied for a later conviction, and includes operating a vehicle under the influence of alcohol or other substance in violation of 23 V.S.A. § 1201, domestic assault in violation of section 1042 of this title, and stalking in violation of section 1062 of this title. “Predicate offense” shall not include misdemeanor possession of marijuana, a disorderly conduct offense under section 1026 of this title, or possession of a controlled substance in violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a), 4234b(a), 4235(b), or 4235a(a).

(4) “Qualifying crime” means: any criminal offense that is not an offense listed in subdivision 5301(7) of this title or a violation of 18 V.S.A. § 4231(c), 4233(c), 4233a(b), 4234a(c), or 4230(c), or any offense for which a person has been granted an unconditional pardon from the Governor.

~~(A) a misdemeanor offense that is not:~~

~~(i) a listed crime as defined in subdivision 5301(7) of this title;~~

~~(ii) an offense involving sexual exploitation of children in violation of chapter 64 of this title;~~

~~(iii) an offense involving violation of a protection order in violation of section 1030 of this title;~~

~~(iv) prostitution as defined in section 2632 of this title, or prohibited conduct under section 2601a of this title; or~~

~~(v) a predicate offense;~~

~~(B) a violation of subsection 3701(a) of this title related to criminal mischief;~~

~~(C) a violation of section 2501 of this title related to grand larceny;~~

~~(D) a violation of section 1201 of this title related to burglary, excluding any burglary into an occupied dwelling, as defined in subdivision 1201(b)(2) of this title;~~

~~(E) a violation of 18 V.S.A. § 4223 related to fraud or deceit;~~

~~(F) a violation of section 1802 of this title related to uttering a forged or counterfeited instrument;~~

~~(G) a violation of 18 V.S.A. § 4230(a) related to possession of marijuana;~~

~~(H) a violation of 18 V.S.A. § 4231(a) related to possession of cocaine;~~

~~(I) a violation of 18 V.S.A. § 4232(a) related to possession of LSD;~~

~~(J) a violation of 18 V.S.A. § 4233(a) related to possession of heroin;~~

~~(K) a violation of 18 V.S.A. § 4234(a) related to possession of depressant, stimulant, and narcotic drugs;~~

~~(L) a violation of 18 V.S.A. § 4234a(a) related to possession of methamphetamine;~~

~~(M) a violation of 18 V.S.A. § 4234b(a) related to possession of ephedrine and pseudoephedrine;~~

~~(N) a violation of 18 V.S.A. § 4235(b) related to possession of hallucinogenic drugs;~~

~~(O) a violation of 18 V.S.A. § 4235a(a) related to possession of ecstasy; or~~

~~(P) any offense for which a person has been granted an unconditional pardon from the Governor.~~

(5) “Qualifying felony property offense” means a felony level violation of 9 V.S.A. § 4043 related to fraudulent use, 13 V.S.A. § 1801 related to forgery and counterfeiting, 13 V.S.A. § 1802 related to uttering forged or counterfeited instrument, 13 V.S.A. § 1804 related to counterfeiting paper money, 13 V.S.A. § 1816 related to possession or use of credit card skimming devices, 13 V.S.A. § 2001 related to false personation, 13 V.S.A. § 2002 related to false pretenses or tokens, 13 V.S.A. § 2029 related to home improvement fraud, 13 V.S.A. § 2030 related to identity theft, 13 V.S.A. § 2501 related to grand larceny, 13 V.S.A. § 2502 related to petit larceny, 13 V.S.A. § 2503 related to larceny from the person, 13 V.S.A. § 2531 related to embezzlement, 13 V.S.A. § 2532 related to officers or servants of incorporated bank, 13 V.S.A. § 2533 related to receiver or trustee, 13 V.S.A.

§ 2537 related to holding property in official capacity or belonging to the State or a municipality, 13 V.S.A. § 2561 related to receiving stolen property, 13 V.S.A. § 2575a related to organized retail theft, 13 V.S.A. § 2577 related to retail theft, 13 V.S.A. § 2582 related to theft of services, 13 V.S.A. § 2591 related to theft of rented property, 13 V.S.A. § 2592 related to failure to return a rented or leased motor vehicle, 13 V.S.A. § 3016 related to false claims, 13 V.S.A. § 3701 related to unlawful mischief, 13 V.S.A. § 3705 related to unlawful trespass, 13 V.S.A. § 3733 related to mills, dams or bridges, 13 V.S.A. § 3761 related to unauthorized removal of human remains, 13 V.S.A. § 3767 related to grave markers and ornaments, 13 V.S.A. § 4103 related to access to computer for fraudulent purposes, 13 V.S.A. § 4104 related to alteration, damage, or interference, or 13 V.S.A. § 4105 related to theft or destruction.

(6) “Subsequent offense” means a crime committed by the person who is the subject of a petition to expunge or seal a criminal history record that arose out of a new incident or occurrence after the person was convicted of the crime to be expunged or sealed.

Sec. 3. 13 V.S.A. § 7602 is amended to read:

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

(a)(1) A person may file a petition with the court requesting expungement or sealing of the criminal history record related to the conviction if:

(A) the person was convicted of a qualifying crime or qualifying crimes arising out of the same incident or occurrence;

(B) the person was convicted of an offense for which the underlying conduct is no longer prohibited by law or designated as a criminal offense;

(C) pursuant to the conditions set forth in subsection (g) of this section, the person was convicted of a violation of 23 V.S.A. § 1201(a) related to operating under the influence of alcohol or other substance, excluding a violation of that section resulting in serious bodily injury or death to any person other than the operator, or related to operating a school bus with a blood alcohol concentration of 0.02 or more or operating a commercial vehicle with a blood alcohol concentration of 0.04 or more; or

(D) pursuant to the conditions set forth in subsection (h) of this section, the person was convicted under 1201(c)(3)(A) of a violation of subdivision 1201(a) of this title related to burglary when the person was 25 years of age or younger, and the person did not carry a dangerous or deadly weapon during commission of the offense.

(2) The State's Attorney or Attorney General shall be the respondent in the matter.

(3) The court shall grant the petition without hearing if the petitioner and the respondent stipulate to the granting of the petition. The respondent shall file the stipulation with the court, and the court shall issue the petitioner an order of expungement and provide notice of the order in accordance with this section.

(4) This section shall not apply to an individual licensed as a commercial driver pursuant to 23 V.S.A. chapter 39 seeking to seal or expunge a record of a conviction for a felony offense committed in a motor vehicle as defined in 23 V.S.A. § 4.

(b) Qualifying nonpredicate misdemeanors and possession of a controlled substance offenses. For petitions filed to expunge or seal a criminal history record of a nonpredicate misdemeanor offense or a violation of 18 V.S.A. § 4230(a), 4231(a), 4232(a), 4233(a), 4234(a), 4234a(a), 4234b(a), 4235(b), or 4235a(a):

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

(A) At least five years have elapsed since:

(i) the date on which the person successfully completed the terms and conditions of the sentence for the conviction satisfied the judgement, or if the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least five years previously; or

(ii) if the person committed a subsequent offense, the date on which the person satisfied the judgment for the subsequent offense, whichever is later.

(B) ~~The person has not been convicted of a crime arising out of a new incident or occurrence since the person was convicted for the qualifying crime.~~ [Repealed.]

(C) Any restitution ordered by the court has been paid in full.

(D) The court finds that expungement of the criminal history record serves the interests of justice.

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

conditions of subdivisions (1)(A), ~~(B)~~, and (C) of this subsection are met and the court finds that:

(A) sealing the criminal history record better serves the interests of justice than expungement; and

(B) the person committed the qualifying crime after reaching 19 years of age.

(3) If the respondent stipulates to a petition filed prior to, on, or after the date the offense is eligible for expungement or sealing as set forth in this subsection, the court may grant the petition without a hearing.

(c) Qualifying predicate misdemeanors. For petitions filed to expunge or seal a criminal history record of a qualifying predicate misdemeanor offense:

(1) The court shall grant the petition and order that the criminal history record be ~~expunged~~ sealed pursuant to section ~~7606~~ 7607 of this title if the following conditions are met:

(A) At least ~~10~~ five years have elapsed since:

(i) the date on which the person successfully completed the terms and conditions of the sentence for the conviction satisfied the judgement; or

(ii) if the person committed a subsequent offense, the date on which the person satisfied the judgement for the subsequent offense, whichever is later.

~~(B) The person has not been convicted of a felony arising out of a new incident or occurrence in the last seven years. [Repealed.]~~

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

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

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

~~(2) The court shall grant the petition and order that all or part of the criminal history record be sealed pursuant to section 7607 of this title if the conditions of subdivisions (1)(A), (B), (C), and (D) of this subsection are met and the court finds that:~~

~~(A) sealing the criminal history record better serves the interests of justice than expungement; and~~

~~(B) the person committed the qualifying crime after reaching 19 years of age.~~ A criminal history record sealed pursuant to this subsection (c) shall be eligible for expungement pursuant to section 7606 of this title five years after the date on which sealing order is issued if the person does not commit any criminal offense subsequent to the sealed.

(3) If the respondent stipulates to a petition filed prior to, on, or after the date the offense is eligible for expungement or sealing as set forth in this subsection, the court may grant the petition without a hearing.

* * *

(g) For petitions filed pursuant to subdivision (a)(1)(C) of this section, only petitions to seal may be considered or granted by the court. This subsection shall not apply to an individual licensed as a commercial driver pursuant to 23 V.S.A. chapter 39. Unless the court finds that sealing would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be sealed in accordance with section 7607 of this title if the following conditions are met:

(1) At least 10 years have elapsed since the date on which the person ~~successfully completed the terms and conditions of the sentence~~ satisfied the judgment for the conviction, or if the person has ~~successfully completed the terms and conditions of an indeterminate term of probation that commenced at least 10 years previously.~~

(2) At the time of the filing of the petition:

(A) the person has only one conviction of a violation of 23 V.S.A. § 1201, which shall be construed in accordance with 23 V.S.A. § 1211; and

(B) the person has not been convicted of a ~~crime arising out of a new incident or occurrence~~ subsequent offense since the person was convicted of a violation of 23 V.S.A. § 1201(a).

(3) Any restitution ordered by the court has been paid in full.

(4) The court finds that sealing of the criminal history record serves the interests of justice.

(h) For petitions filed pursuant to subdivision (a)(1)(D) of this section, unless the court finds that expungement or sealing would not be in the interests of justice, the court shall grant the petition and order that the criminal history record be expunged or sealed in accordance with section 7606 or 7607 of this title if the following conditions are met:

(1) At least 15 years have elapsed since the date on which the person ~~successfully completed the terms and conditions of the sentence~~ satisfied the

judgment for the conviction, or the person has successfully completed the terms and conditions of an indeterminate term of probation that commenced at least 15 years previously.

(2) The person has not been convicted of a crime arising out of a new incident or occurrence subsequent offense since the person was convicted of a violation of subdivision 1201(c)(3)(A) of this title.

(3) Any restitution ordered by the court has been paid in full.

(4) The court finds that expungement or sealing of the criminal history record serves the interests of justice.

(i) Qualifying felony property offenses and selling, dispensing, or transporting regulated substances offenses. For petitions filed to expunge or seal a criminal history record of a qualifying felony property offense or a violation of 18 V.S.A. § 4230(b), 4231(b), 4232(b), 4233(b), 4234(b), 4234a(b), 4234b(b), 4235(c), or 4235a(b):

(1) The court shall grant the petition and order that the criminal history record be sealed pursuant to section 7607 of this title if the following conditions are met:

(A) At least eight years have elapsed since:

(i) the date on which the person satisfied the judgment for the conviction; or

(ii) if the person committed a subsequent offense, the date on which the person satisfied the judgment for the subsequent offense, whichever is later.

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

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

(2) A criminal history record sealed pursuant to this subsection (i) shall be eligible for expungement pursuant to section 7606 of this title eight years after the date on which sealing order is issued if the person does not commit any criminal offense subsequent to the sealed offense.

(3) If the respondent stipulates to a petition filed prior to, on, or after the date the offense is eligible for sealing as provided in this subsection, the court may grant the petition to seal without a hearing.

(j) Qualifying felonies. For petitions filed to expunge or seal a criminal history record of any other qualifying felony offense not specified in subsection (f), (h), or (i) of this section:

(1) The court shall grant the petition and order that the criminal history record be sealed pursuant to section 7607 of this title if the following conditions are met:

(A) At least 10 years have elapsed since the date on which the person satisfied the judgment for the conviction or, if the person committed a subsequent offense, 10 years from the date on which the person satisfied the judgment for the subsequent offense, whichever is later.

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

(2) A criminal history record sealed pursuant to this subsection (j) shall not be eligible for expungement pursuant to section 7606 of this title unless the respondent stipulates to the expungement.

(3) If the respondent stipulates to a petition to seal filed prior to, on, or after the date the offense is eligible for sealing as provided in this subsection, the court may grant the petition to seal without a hearing.

Sec. 4. 33 V.S.A. § 5119 is amended to read:

§ 5119. SEALING OF RECORDS

* * *

(g) On application of a person who has pleaded guilty to or has been convicted of the commission of a crime under the laws of this State which the person committed prior to attaining the age of ~~24~~ 25, or on the motion of the court having jurisdiction over such a person, after notice to all parties of record and hearing, the court shall order the sealing of all files and records related to the proceeding if it finds:

(1) two years have elapsed since the final discharge of the person;

(2) the person has not been convicted of a listed crime as defined in 13 V.S.A. § 5301 or adjudicated delinquent for such an offense ~~after the initial conviction~~ for 10 years prior to the application or motion, and no new proceeding is pending seeking such conviction or adjudication; and

(3) the person's rehabilitation has been attained to the satisfaction of the court.

* * *

Sec. 5. 23 V.S.A. § 2303 is added to read:

§ 2303. EXPUNGEMENT OF VIOLATION RECORDS

(a) Automatic expungement. The Judicial Bureau shall automatically enter an expungement order for convictions or adjudications of the following violations on the two-year anniversary of the satisfaction of the judgment:

- (1) section 301 of this title (operating an unregistered vehicle);
- (2) subsection 307(a) of this title (failing to possess registration);
- (3) section 611 of this title (failing to possess license);
- (4) subsection 676(a) of this title (operating after suspension);
- (5) section 601 of this title (operating without a license);
- (6) section 800 of this title (operating without insurance); and
- (7) subsection 1222(c) of this title (operating an uninspected vehicle).

(b) Effect of expungement.

(1) Upon entry of an expungement order, the order shall be legally effective immediately and the individual whose record is expunged shall be treated in all respects as if he or she had never been convicted or adjudicated of the violation. This includes the expungement of any points accumulated pursuant to chapter 25 of this title.

(2) The Judicial Bureau shall report the expungement to the Department of Motor Vehicles within 14 days.

(3) The Judicial Bureau shall keep a special index of cases that have been expunged together with the expungement order. The index shall list only the name of the individual convicted or adjudicated of the violation, his or her date of birth, the docket number, and the violation that was the subject of the expungement. All other court documents and records that are subject to an expungement order, whether held by the Judicial Bureau or the Department of Motor Vehicles, shall be destroyed.

(4) Upon receiving an inquiry from any person regarding an expunged record, the Judicial Bureau and Department of Motor Vehicles shall respond that "NO RECORD EXISTS."

(c) Policies for implementation. The Court Administrator shall establish policies for implementing this section.

Sec. 6. 18 V.S.A. § 4230 is amended to read:

§ 4230. MARIJUANA

(a) Possession and cultivation.

(1)(A) No person shall knowingly and unlawfully possess more than one ounce of marijuana or more than five grams of hashish or cultivate more than two mature marijuana plants or four immature marijuana plants. A person who violates this subdivision shall be assessed a civil penalty as follows:

(A) not more than \$100.00 for a first offense;

(B) not more than \$200.00 for a second offense; and

(C) not more than \$500.00 for a third or subsequent offense.

(2)(A) No person shall knowingly and unlawfully possess more than two ounces of marijuana or more than ten grams of hashish or more than four mature marijuana plants or eight immature marijuana plants. For a first offense under this subdivision ~~(A)(2)~~, a person shall be provided the opportunity to participate in the Court Diversion Program unless the prosecutor states on the record why a referral to the Court Diversion Program would not serve the ends of justice. A person convicted of a first offense under this subdivision shall be imprisoned not more than six months or fined not more than \$500.00, or both.

(B) A person convicted of a second or subsequent offense of knowingly and unlawfully possessing ~~more than one ounce of marijuana or more than five grams of hashish or cultivating more than two mature marijuana plants or four immature marijuana plants~~ two ounces of marijuana or more than ten grams of hashish or more than four mature marijuana plants or eight immature marijuana plants shall be imprisoned not more than two years or fined not more than \$2,000.00, or both.

(C) Upon an adjudication of guilt for a first or second offense under this subdivision, the court may defer sentencing as provided in 13 V.S.A. § 7041, except that the court may in its discretion defer sentence without the filing of a presentence investigation report and except that sentence may be imposed at any time within two years from and after the date of entry of deferment. The court may, prior to sentencing, order that the defendant submit to a drug assessment screening, which may be considered at sentencing in the same manner as a presentence report.

(3) A person knowingly and unlawfully possessing ~~two eight~~ ounces of marijuana or ~~10 grams~~ 1.4 ounces of hashish or knowingly and unlawfully

cultivating more than four mature marijuana plants or eight immature marijuana plants shall be imprisoned not more than three years or fined not more than \$10,000.00, or both.

(4) A person knowingly and unlawfully possessing more than one pound of marijuana or more than 2.8 ounces of hashish or knowingly and unlawfully cultivating more than six mature marijuana plants or 12 immature marijuana plants shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(5) A person knowingly and unlawfully possessing more than 10 pounds of marijuana or more than one pound of hashish or knowingly and unlawfully cultivating more than 12 mature marijuana plants or 24 immature marijuana plants shall be imprisoned not more than 15 years or fined not more than \$500,000.00, or both.

(6) If a court fails to provide the defendant with notice of collateral consequences in accordance with 13 V.S.A. § 8005(b) and the defendant later at any time shows that the plea and conviction for a violation of this subsection may have or has had a negative consequence, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea or admission and enter a plea of not guilty. Failure of the court to advise the defendant of a particular collateral consequence shall not support a motion to vacate.

(7) The amounts of marijuana in this subsection shall not include marijuana cultivated, harvested, and stored in accordance with section 4230e of this title.

* * *

Sec. 7. EXPUNGEMENT OF MARIJUANA CRIMINAL HISTORY RECORDS

(a) As used in this section:

(1) "Court" means the Criminal Division of the Superior Court.

(2) "Criminal history record" means all information documenting an individual's contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

(b) The court shall order the expungement of criminal history records of violations of 18 V.S.A. § 4230(a)(1) that occurred prior to July 1, 2020. The process for expunging these records shall be completed not later than July 1, 2021.

(c) Upon entry of an expungement order, the order shall be legally effective immediately and the person whose record is expunged shall be treated in all respects as if he or she had never been arrested, convicted, or sentenced for the offense. The court shall issue an order to expunge all records and files related to the arrest, citation, investigation, charge, adjudication of guilt, criminal proceedings, and probation related to the sentence. The court shall issue the person a certificate stating that the offense for which the person was convicted has been decriminalized and therefore warrants issuance of the order and that its effect is to annul the record of arrest, conviction, and sentence. The court shall provide notice of the expungement to the respondent, Vermont Crime Information Center (VCIC), the arresting agency, and any other entity that may have a record related to the order to expunge. The VCIC shall provide notice of the expungement to the Federal Bureau of Investigation's National Crime Information Center.

(d) In any application for employment, license, or civil right or privilege or in an appearance as a witness in any proceeding or hearing, a person may be required to answer questions about a previous criminal history record only with respect to arrests or convictions that have not been expunged.

(e) Nothing in this section shall affect any right of the person whose record has been expunged to rely on it as a bar to any subsequent proceedings for the same offense.

(f)(1) The court shall keep a special index of cases that have been expunged together with the expungement order and the certificate issued pursuant to this chapter. The index shall list only the name of the person convicted of the offense, his or her date of birth, the docket number, and the criminal offense that was the subject of the expungement.

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

(3) Inspection of the expungement order and the certificate may be permitted only upon petition by the person who is the subject of the case. The Administrative Judge may permit special access to the index and the documents for research purposes pursuant to the rules for public access to court records.

(4) All other court documents in a case that are subject to an expungement order shall be destroyed.

(5) The court shall follow policies adopted pursuant to 13 V.S.A. § 7606 in implementing this section.

(g) Upon receiving an inquiry from any person regarding an expunged record, an entity shall respond that “NO RECORD EXISTS.”

Sec. 8. VERMONT SENTENCING COMMISSION; EXPUNGEMENT OR SEALING OF LISTED CRIMES REPORT

During the 2020 legislative interim, the Vermont Sentencing Commission shall consider whether a comprehensive policy that provides an avenue for expungement or sealing of all offenses will serve the interests of justice. On or before October 15, 2020, the Commission shall report to the Joint Legislative Justice Oversight Committee regarding any policy recommendations regarding the expungement and sealing of criminal history records, including a recommendation for whether and how to provide an avenue to seal or expunge all offenses, including the crimes listed in 13 V.S.A. § 5301(7) and 18 V.S.A. chapter 84 drug trafficking offenses.

Sec. 9. APPROPRIATION

In FY21, \$1,075,000.00 is appropriated on a one-time basis from the General Fund, based on availability, to the judiciary to fund additional positions and other itemized costs to assist with compliance with the requirements of this act.

Sec. 10. EFFECTIVE DATES

(a) Sec. 7 (expungement of marijuana criminal history records) and this section shall take effect on passage.

(b) The rest of this act shall take effect on July 1, 2020.

(Committee vote: 5-0-0)

S. 295.

An act relating to restrictions on perfluoroalkyl and polyfluoroalkyl substances and other chemicals of concern in consumer products.

Reported favorably with recommendation of amendment by Senator McCormack 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:

* * * PFAS in Class B Firefighting Foam * * *

Sec. 1. 18 V.S.A. chapter 33 is added to read:

CHAPTER 33. FIREFIGHTING AGENTS AND EQUIPMENT

§ 1661. DEFINITIONS

As used in this chapter:

(1) “Class B firefighting foam” means chemical foams designed for flammable liquid fires.

(2) “Department” means the Vermont Department of Health.

(3) “Personal protective equipment” means clothing designed, intended, or marketed to be worn by firefighting personnel in the performance of their duties, designed with the intent for use in fire and rescue activities, including jackets, pants, shoes, gloves, helmets, and respiratory equipment.

(4) “Intentionally added” means the addition of a chemical in a product that serves an intended function in the product component.

(5) “Manufacturer” means any person, firm, association, partnership, corporation, organization, joint venture, importer, or domestic distributor of firefighting agents or equipment. As used in this subsection, “importer” means the owner of the product.

(6) “Municipality” means any city, town, incorporated village, town fire district, or other political subdivision that provides firefighting services pursuant to general law or municipal charter.

(7) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

§ 1662. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

A person, municipality, or State agency shall not discharge or otherwise use for training purposes class B firefighting foam that contains intentionally added PFAS.

§ 1663. RESTRICTION ON MANUFACTURE, SALE, AND DISTRIBUTION; EXCEPTIONS

(a) A manufacturer of class B firefighting foam shall not manufacture, sell, offer for sale, or distribute for sale or use in this State class B firefighting foam to which PFAS have been intentionally added.

(b) Notwithstanding subsection (a), any manufacture, sale, or distribution of class B firefighting foam where the inclusion of PFAS is required by federal

law, including the requirements of 14 C.F.R. 139.317 (aircraft rescue and firefighting: equipment and agents), as that section existed as of January 1, 2020 is allowed. In the event that applicable federal regulations change after that date to allow the use of alternative firefighting agents that do not contain PFAS, the Department shall adopt rules that restrict PFAS for the manufacture, sale, and distribution of firefighting foam for uses that are addressed by federal regulation.

§ 1664. SALE OF PERSONAL PROTECTIVE EQUIPMENT CONTAINING PFAS

(a) A manufacturer or other person that sells firefighting equipment to any person, municipality, or State agency shall provide written notice to the purchaser at the time of sale if the personal protective equipment contains PFAS. The written notice shall include a statement that the personal protective equipment contains PFAS and the reason PFAS are added to the equipment.

(b) The manufacturer or person selling personal protective equipment and the purchaser of the personal protective equipment shall retain the notice for at least three years from the date of the transaction. Upon request of the Department, a person, manufacturer, or purchaser shall furnish the notice or written copies and associated sales documentation to the Department within 60 days.

§ 1665. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

(a) A manufacturer of class B firefighting foam prohibited pursuant to section 1663 of this title shall notify, in writing, persons that sell the manufacturer's products in this State about the provisions of this chapter not less than one year prior to the effective date of the restrictions.

(b) A manufacturer that produces, sells, or distributes a class B firefighting foam prohibited pursuant to section 1663 of this title shall recall the product and reimburse the retailer or any other purchaser for the product.

§ 1666. CERTIFICATE OF COMPLIANCE

(a) The Department may request a certificate of compliance from a manufacturer of class B firefighting foam or firefighting personal protective equipment. A certificate of compliance attests that a manufacturer's product or products meet the requirements.

(b) The Department shall assist other State agencies and municipalities to avoid purchasing or using class B firefighting foams to which PFAS has been intentionally added. The Department shall assist other State agencies, town fire districts, and other municipalities to give priority and preference to the purchase of personal protective equipment that does not contain PFAS.

§ 1667. PENALTIES

A violation of this chapter shall be deemed a violation of the Consumer Protection Act, 9 V.S.A. chapter 63. The Attorney General has the same authority to make rules, conduct civil investigations, enter into assurances of discontinuance, and bring civil actions, and private parties have the same rights and remedies as provided under 9 V.S.A. chapter 63, subchapter 1.

* * * PFAS, Phthalates, and Bisphenols in Food Packaging * * *

Sec. 2. 18 V.S.A. chapter 33A is added to read:

CHAPTER 33A. CHEMICALS OF CONCERN IN FOOD PACKAGING

§ 1671. DEFINITIONS

As used in this chapter:

(1) “Bisphenols” means industrial chemicals used primarily in the manufacture of polycarbonate plastic and epoxy resins.

(2) “Department” means the Department of Health.

(3) “Food packaging” means a package that is designed for direct food contact, including a food or beverage product that is contained in a food package or to which a food package is applied, a packaging component of a food package, and plastic disposable gloves used in commercial or institutional food service.

(4) “Intentionally added” means the addition of a chemical in a product that serves an intended function in the product component.

(5) “Package” means a container providing a means of marketing, protecting, or handling a product and shall include a unit package, an intermediate package, and a shipping container. “Package” also means unsealed receptacles, such as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs.

(6) “Packaging component” means an individual assembled part of a package, such as any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels.

(7) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means the same as in section 1661 of this title.

(8) “Phthalates” means any member of the class of organic chemicals that are esters of phthalic acid containing two carbon chains located in the ortho position.

§ 1672. FOOD PACKAGING

(a) A person shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a food package to which PFAS have been intentionally added in any amount.

(b) Pursuant to 3 V.S.A. chapter 25, the Department may adopt rules prohibiting a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package to which bisphenols have been intentionally added in any amount greater than an incidental presence.

(1) The Department may only prohibit a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package in accordance with subsection (a) of this section if the Department has determined that a safer alternative is readily available in sufficient quantity and at a comparable cost and that the safer alternative performs as well as or better than bisphenols in a specific application of bisphenols to a food package or the packaging component of a food package.

(2) If the Department prohibits a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package in accordance with subsection (a) of this section, the prohibition shall not take effect until two years after the Department determines that a safer alternative to bisphenols is available.

(c) A person shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a food package that includes inks, dyes, pigments, adhesives, stabilizers, coatings, plasticizers, or any other additives to which phthalates have been intentionally added in any amount greater than an incidental presence.

§ 1673. CERTIFICATE OF COMPLIANCE

A manufacturer subject to the prohibitions under this chapter shall develop a certificate of compliance under this section. A certificate of compliance attests that a manufacturer's product or products meet the requirements of this chapter. If the Department requests such a certificate, the manufacturer shall provide the certificate within 30 calendar days after the request is made.

§ 1674. RULEMAKING

Pursuant to 3 V.S.A. chapter 25, the Commissioner of Health shall adopt any rules necessary for the implementation, administration, and enforcement of this chapter.

* * * Rugs and Carpets * * *

Sec. 3. 18 V.S.A. chapter 33B is added to read:

CHAPTER 33B. RUGS AND CARPETS

§ 1681. DEFINITIONS

As used in this chapter:

(1) “Department” means the Department of Health.

(2) “Intentionally added” means the addition of a chemical in a product that serves an intended function in the product component.

(3) “Rug or carpet” means a thick fabric used to cover floors.

(4) “Perfluoroalkyl and polyfluoroalkyl substances” or “PFAS” means the same as in section 1661 of this title.

§ 1682. RUGS AND CARPETS

A person shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a residential rug or carpet to which PFAS have been intentionally added in any amount.

§ 1683. CERTIFICATE OF COMPLIANCE

A manufacturer subject to the prohibitions under this chapter shall develop a certificate of compliance under this section. A certificate of compliance attests that a manufacturer’s product or products meet the requirements of this chapter. If the Department requests such a certificate, the manufacturer shall provide the certificate within 30 calendar days after the request is made.

§ 1684. RULEMAKING

Pursuant to 3 V.S.A. chapter 25, the Commissioner shall adopt any rules necessary for the implementation, administration, and enforcement of this chapter.

* * * Chemicals of High Concern to Children * * *

Sec. 4. 18 V.S.A. § 1773 is amended to read:

§ 1773. CHEMICALS OF HIGH CONCERN TO CHILDREN

(a) List of chemicals of high concern to children. The following chemicals or a member of a class of chemicals are designated as chemicals of high concern to children for the purposes of the requirements of this chapter:

* * *

(67) Perfluoroalkyl and polyfluoroalkyl substances, the class for fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(68) Any other chemical designated by the Commissioner as a chemical of high concern to children by rule under section 1776 of this title.

* * *

* * * Effective Dates * * *

Sec. 5. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except Secs. 1 (Class B Firefighting Foam) and 4 (Chemicals of High Concern to Children) shall take effect on July 1, 2021 and Secs. 2 (Food Packaging) and 3 (Rugs and Carpets) shall take effect on July 1, 2022.

(Committee vote: 5-0-0)

S. 297.

An act relating to the Agency of Health Care Administration.

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:

Sec. 1. AGENCY OF HUMAN SERVICES REORGANIZATION; WORKING GROUP; REPORT

(a) Creation. There is created a working group to develop proposals for reorganizing the Agency of Human Services.

(b) Membership. The working group shall be composed of the following members:

(1) the Secretary of Human Services or designee;

(2) the commissioner of each department within the Agency of Human Services or their designees; and

(3) other interested stakeholders.

(c) Powers and duties. The working group shall consider options for reorganizing, restructuring, or reconfiguring the Agency of Human Services and its departments to best serve Vermonters, including consideration of the following:

(1) whether the Agency of Human Services should be divided into two or more agencies, and if so, how they should be organized;

(2) whether the Agency of Human Services should be divided as follows:

(A) an Agency of Human Services, comprising the Department of Corrections; the Department for Children and Families; the Department of Independent Living, which would provide services to Vermonters who are elders and to individuals with disabilities; and the Human Services Board; and

(B) an Agency of Health Care Administration comprising the Departments of Health Access, of Mental Health and Substance Misuse, of Long-Term Care, and of Public Health; the Health Care Board; and the Vermont Health Benefit Exchange;

(3) how to improve collaboration, integration, and alignment of services across agencies and departments to deliver services built around the needs of individuals and families; and

(4) how to minimize any confusion or disruption that may result from implementing the recommended changes.

(d) Assistance. The working group shall have the administrative, technical, and legal assistance of the Agency of Human Services.

(e) Report. On or before January 15, 2021, the working group shall provide its findings and recommendations to the General Assembly and the Governor.

(f) Meetings.

(1) The Secretary of Human Services or designee shall call the first meeting of the working group to occur on or before July 1, 2020.

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

(3) A majority of the working group's membership shall constitute a quorum.

(4) The working group shall cease to exist on January 15, 2021.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to reorganizing the Agency of Human Services.

(Committee vote: 5-0-0)

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

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

**Sec. 1. AGENCY OF HUMAN SERVICES ORGANIZATIONAL
STRUCTURE; WORKING GROUP; REPORT**

(a) Creation. There is created a working group to evaluate the organizational structure of the Agency of Human Services and to recommend any appropriate modifications to that structure.

(b) Membership. The working group shall be composed of the following members:

(1) the Secretary of Human Services or designee;

(2) the commissioner of each department within the Agency of Human Services or their designees; and

(3) three employees of the Agency of Human Services, appointed by the President of the Vermont State Employees Association.

(c) Powers and duties. The working group, in consultation with interested stakeholders, shall consider options for reorganizing, restructuring, or reconfiguring the Agency of Human Services and its departments to best serve Vermonters, including consideration of the following:

(1) whether the Agency of Human Services should be divided into two or more agencies, and if so, how they should be organized;

(2) how to improve collaboration, integration, and alignment of services across agencies and departments to deliver services built around the needs of individuals and families; and

(3) how to minimize any confusion or disruption that may result from implementing the recommended changes.

(d) Assistance. The working group shall have the administrative, technical, and legal assistance of the Agency of Human Services.

(e) Report. On or before January 15, 2021, the working group shall provide its findings and recommendations to the General Assembly and the Governor.

(f) Meetings.

(1) The Secretary of Human Services or designee shall call the first meeting of the working group to occur on or before July 1, 2020.

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

(3) A majority of the working group's membership shall constitute a quorum.

(4) All of the working group's meetings shall be open to the public and all meeting dates, times, and locations shall be posted on the General Assembly's website.

(5) The working group shall cease to exist on January 15, 2021.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to the organizational structure of the Agency of Human Services.

(Committee vote: 4-1-0)

S. 301.

An act relating to repealing the sunset on 30 V.S.A. § 248a.

Reported favorably with recommendation of amendment by Senator Brock 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. § 248a(i) is amended to read:

(i) Sunset of Commission authority. Effective on July 1, ~~2020~~ 2025, no new applications for certificates of public good under this section may be considered by the Commission.

Sec. 2. REPORT ON CRITERIA

On or before February 1, 2021, the Public Utility Commission shall review the criteria used in awarding a certificate of public good under 30 V.S.A. § 248a and report to the Senate Committee on Finance and the House Committee on Energy and Technology any changes that should be made in light of the recent developments in telecommunications technology.

Sec. 3. 2019 Acts and Resolves No. 79, Sec. 25 is amended to read:

Sec. 25. OUTAGES AFFECTING E-911 SERVICE; REPORTING;
RULE; E-911 BOARD

The E-911 Board shall adopt a rule establishing protocols for the E-911 Board to obtain or be apprised of, in a timely manner, system outages applicable to wireless service providers, providers of facilities-based, fixed voice service that is not line-powered and to electric companies for the purpose of enabling the E-911 Board to assess 911 service availability during such outages. An outage for purposes of this section includes any loss of E-911 calling capacity, whether caused by ~~lack of function of the telecommunications subscriber's backup power equipment, lack of function within a telecommunications provider's system network failure,~~ or an outage in the electric power system. For purposes of this section, a network failure includes the failure of backup power equipment that is owned and controlled solely by the telecommunications provider. The rule shall incorporate the threshold criteria established under 47 C.F.R. Part 4, § 4.9(e) as it pertains to outage reporting requirements applicable to wireless service providers. The E-911 Board shall file a final proposed rule with the Secretary of State and with the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841 on or before ~~February 1, 2020~~ September 30, 2020.

Sec. 4. OUTAGE REPORTING; LEGISLATIVE INTENT;
RECOMMENDATION

The General Assembly recognizes that, with respect to outage reporting requirements applicable to wireless service providers, the federal threshold criteria established under 47 C.F.R. Part 4, § 4.9(e) may not provide data at a sufficient level of granularity to adequately inform the E-911 Board of outages that raise significant public safety concerns for Vermonters. However, the General Assembly also recognizes that more particularized reporting requirements will impose additional burdens on Vermont wireless service providers. Accordingly, to the extent a wireless service provider has the capability of providing more granular outage data than is required under applicable FCC rules, such provider may voluntarily report that data to the E-911 Board. The E-911 Board shall review all outage data reported by wireless service providers and make a recommendation to the General Assembly on or before January 1, 2021 as to whether the threshold criteria should be adjusted in any manner to promote the public's health, safety, and security.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to miscellaneous telecommunications changes.

(Committee vote: 7-0-0)

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)

FOR INFORMATION ONLY

Proposal of amendment to H. 681 to be offered by Senators Sirotkin, Balint, Brock, Clarkson and Hooker

Senators Sirotkin, Balint, Brock, Clarkson and Hooker move that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Unemployment Insurance * * *

Sec. 1. 21 V.S.A. § 1314a is amended to read:

§ 1314a. QUARTERLY WAGE REPORTING; MISCLASSIFICATION; PENALTIES

(a)(1) ~~Effective with the calendar quarter ending September 30, 1986 and all subsequent calendar quarters, each~~ Each employing unit ~~which that~~ is an employer ~~as defined in subdivision 1301(5) of this chapter, having that~~ has individuals in employment as defined in subdivision 1301(6) of this chapter, shall file with the Commissioner on forms ~~to be~~ supplied by the Commissioner ~~to each such employer~~ a detailed wage report ~~containing for each calendar quarter that contains~~ each individual worker's name, Social Security number, gross wages paid during each ~~such~~ calendar quarter, and any other information the Commissioner deems ~~reasonably~~ necessary in the administration of this chapter.

(2) ~~Effective with the calendar quarter ending March 31, 2001, and all subsequent calendar quarters, in~~ In addition to other information required by this section, the wage reports required by this subsection shall include for each worker paid by the hour, the worker's gender, and the worker's hourly wage. ~~The wage reports may be filed electronically.~~

* * *

(c) An employing unit, ~~as defined in subdivision 1301(4) of this chapter which that~~ is not an employer, ~~as defined in subdivision 1301(5), shall, upon request of the Commissioner, file~~ submit reports on forms furnished by the Commissioner ~~reports respecting regarding~~ employment, wages, hours of employment, and unemployment, and related matters ~~as that~~ the Commissioner deems ~~reasonably~~ necessary in the administration of this chapter.

(d) Reports required by subsection (c) of this section shall be ~~returned so as to be received by~~ submitted to the Commissioner not later than 10 calendar days after the date ~~of the mailing of the Commissioner's request~~ was mailed to the employing unit.

(e) On ~~the~~ request of the Commissioner, any employing unit or employer shall report, within 10 days of the mailing or personal delivery of the request, separation information ~~with respect to~~ for a claimant, any disqualifying income the claimant may have received, and any other information that the Commissioner may ~~reasonably~~ require to determine ~~a~~ the claimant's eligibility for unemployment compensation. The Commissioner shall make such a request ~~whenever~~ when:

(1) the claimant's eligibility is dependent ~~either~~ upon:

(A) wages paid during an incomplete calendar quarter in which the claimant was separated; or

(B) ~~upon~~ the last completed quarter; and

(2) ~~when to do so would~~ obtaining the information will result in more timely benefit payments.

(f)(1) Any employing unit or employer that fails to:

(A) File ~~any~~ a report required by this section shall be subject to ~~a~~ an administrative penalty of \$100.00 for each report not received by the prescribed due dates.

(B) Properly classify an individual regarding the status of employment is ~~shall be~~ subject to ~~a~~ an administrative penalty of not more than \$5,000.00 for each improperly classified employee. In addition, an employer found to have violated this section is prohibited from contracting, directly or indirectly, with the State or any of its subdivisions for up to three years following the date the employer was found to have failed to properly classify, as determined by the Commissioner in consultation with the Commissioner of Buildings and General Services or the Secretary of Transportation, as appropriate. Either the Secretary or the Commissioner, as appropriate, shall be consulted in any appeal relating to prohibiting the employer from contracting with the State or its subdivisions.

(2)(A) Penalties under this subsection shall be collected in the same manner ~~provided for the collection of~~ as contributions ~~in~~ under section 1329 of this title and shall be paid into the Contingent Fund ~~provided~~ established in section 1365 of this title.

(B) If the employing unit demonstrates that its failure was due to a reasonable cause, the Commissioner may waive or reduce the penalty.

(g)(1) Notwithstanding any other provisions of this section, the Commissioner may where practicable require of any employing unit that to file the reports required to be filed pursuant to subsections (a) through (d) of this section be filed, or any departmental registration required prior to submitting the reports required by this section, in an electronic media form.

(2) The Commissioner may waive the requirement that an employing unit submit a report in an electronic media form if the employing unit attests that it is unable to file the required report in that form.

* * * Unemployment Insurance Related to COVID-19 Outbreak * * *

Sec. 2. 21 V.S.A. § 1325 is amended to read:

§ 1325. EMPLOYERS' EXPERIENCE-RATING RECORDS;
DISCLOSURE TO SUCCESSOR ENTITY

(a)(1) The Commissioner shall maintain an experience-rating record for each employer. Benefits paid shall be charged against the experience-rating record of each subject employer who provided base-period wages to the eligible individual. Each subject employer's experience-rating charge shall bear the same ratio to total benefits paid as the total base-period wages paid by that employer bear to the total base-period wages paid to the individual by all base-period employers. The experience-rating record of an individual subject base-period employer shall not be charged for benefits paid to an individual under any of the following conditions:

* * *

(G) The individual voluntarily separated from that employer as provided by subdivision 1344(a)(2)(A) of this chapter for one of the following reasons:

(i) To self-isolate or quarantine at the recommendation of a health care provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:

(I) the individual has been diagnosed with COVID-19;

(II) the individual is experiencing the symptoms of COVID-19;

(III) the individual has been exposed to COVID-19; or

(IV) the individual belongs to a specific class or group of persons that have been identified as being at high-risk if exposed to or infected with COVID-19.

(ii) Because of an unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment.

(iii) To care for or assist a family member of the individual who is self-isolating or quarantining at the recommendation of a health care provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:

(I) the family member has been diagnosed with COVID-19;

(II) the family member is experiencing the symptoms of COVID-19;

(III) the family member has been exposed to COVID-19; or

(IV) the family member belongs to a specific class or group of persons that have been identified as being at high-risk if exposed to or infected with COVID-19.

(iv) To care for or assist a family member who has left employment because of an unreasonable risk that they could be exposed to or become infected with COVID-19 at their place of employment; or

(v) To care for a child under 18 years of age because the child's school or child care has been closed or the child care provider is unavailable due to a public health emergency related to COVID-19.

(H) As used in this subdivision (a)(1):

(i) "Family member" means an individual's parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child. As used in this subdivision (a)(1)(H)(i), "spouse" includes a domestic partner or civil union partner.

(ii) "An unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment" shall include the individual's place of employment being out of compliance with the Guidance on Preparing Workplaces for COVID-19 issued by the U.S. Occupational Safety and Health Administration (OSHA) or any similar guidance issued by OSHA, the U.S. Centers for Disease Control, or the Vermont Department of Health and any other conditions or factors that the Commissioner determines to create an unreasonable risk.

(2) If an individual's unemployment is directly caused by a major disaster declared by the President of the United States pursuant to 42 U.S.C. § 5122 and the individual would have been eligible for federal disaster unemployment assistance benefits but for the receipt of regular benefits, an employer shall be relieved of charges for benefits paid to the individual with respect to any week of unemployment occurring due to the natural disaster up to a maximum amount of four weeks.

(3)(A) Subject to the provisions of subdivision (B) of this subdivision (a)(3), an employer shall be relieved of charges for benefits paid to an individual for a period of up to eight weeks with respect to benefits paid because:

(i) the employer temporarily ceased operation, either partially or completely, at the individual's place of employment in response to a request from a public health authority with jurisdiction that the employer cease operations because of COVID-19, in response to an emergency order or directive issued by the Governor or the President related to COVID-19, or because the employer voluntarily ceased operations due to the actual exposure of workers at that place of employment to COVID-19;

(ii) the individual becomes unemployed as a direct result of a state of emergency declared by the Governor or the President in relation to COVID-19 or an order or directive issued by the Governor or President in relation to COVID-19; or

(iii) the individual has been recommended or requested by a medical professional or a public health authority with jurisdiction to be isolated or quarantined as a result of COVID-19, regardless of whether the individual has been diagnosed with COVID-19.

(B) An employer shall only be eligible for relief of charges for benefits paid under the provisions of this subdivision (a)(3) if the employer rehires or offers to rehire the individual within a reasonable period of time after the employer resumes operations at the individual's place of employment, as determined by the Commissioner, or upon the completion of the individual's period of isolation or quarantine.

(C) The Commissioner may extend the period for which an employer shall be relieved of charges for benefits paid to employees pursuant to subdivision (A)(i) of this subdivision (a)(3) by an amount that the Commissioner determines to be appropriate in light of the terms of any applicable request from a local health official or the Commissioner of Health or any applicable emergency order or directive issued by the Governor or the President and any other relevant conditions or factors.

* * *

Sec. 3. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

* * *

(2) For any week benefits are claimed, except as provided in subdivision (a)(3) of this section, until he or she has presented evidence to the satisfaction of the Commissioner that he or she has performed services in employment for a bona fide employer and has had earnings in excess of six times his or her weekly benefit amount if the Commissioner finds that such individual is unemployed because:

(A) He or she has left the employ of his or her last employing unit voluntarily without good cause attributable to such employing unit. An individual shall not suffer more than one disqualification by reason of such separation. However, an individual shall not be disqualified for benefits if:

(i) the individual left such employment to accompany a spouse who:

(i)(I) is on active duty with the U.S. Armed Forces and is required to relocate due to permanent change of station orders, activation orders, or unit deployment orders, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employing unit; or

(ii)(II) holds a commission in the U.S. Foreign Service and is assigned overseas, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employing unit;

(ii) The individual has left employment to self-isolate or quarantine at the recommendation of a health care provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:

(I) the individual has been diagnosed with COVID-19;

(II) the individual is experiencing the symptoms of COVID-19;

(III) the individual has been exposed to COVID-19; or

(IV) the individual belongs to a specific class or group of persons that have been identified as being at high-risk if exposed to or infected with COVID-19.

(iii) The individual has left employment because of an unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment.

(iv) The individual has left employment to care for or assist a family member of the individual who is self-isolating or quarantining at the recommendation of a health care provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:

(I) the family member has been diagnosed with COVID-19;

(II) the family member is experiencing the symptoms of COVID-19;

(III) the family member has been exposed to COVID-19; or

(IV) the family member belongs to a specific class or group of persons that have been identified as being at high-risk if exposed to or infected with COVID-19.

(v) the individual has left employment to care for or assist a family member who has left employment because of an unreasonable risk that they could be exposed to or become infected with COVID-19 at their place of employment; or

(v) The individual left employment to care for a child under 18 years of age because the child's school or child care has been closed or the child care provider is unavailable due to a public health emergency related to COVID-19.

* * *

(G) As used in this subdivision (a)(2):

(i) "Family member" means an individual's parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child. As used in this subdivision (a)(2)(G)(i), "spouse" includes a domestic partner or civil union partner.

(ii) "An unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment" shall include the individual's place of employment being out of compliance with the Guidance on Preparing Workplaces for COVID-19 issued by the

U.S. Occupational Safety and Health Administration (OSHA) or any similar guidance issued by OSHA, the U.S. Centers for Disease Control, or the Vermont Department of Health and any other conditions or factors that the Commissioner determines to create an unreasonable risk.

(H)(i) Except as otherwise provided pursuant to subdivision (2) of this subdivision (a)(2)(H), an unemployed individual who is eligible for benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection shall be ineligible for benefits under those subdivisions if the individual becomes eligible for benefits provided pursuant to:

(I) enacted federal legislation that amends or establishes a federal program providing benefits for unemployed individuals that are similar to the benefits provided pursuant to subdivisions (2)(A)(ii)–(vi); or

(II) a national emergency declared by the President that results in the provision of benefits pursuant to Disaster Unemployment Assistance, Emergency Unemployment Compensation, Extended Unemployment Compensation, or any similar type program.

(ii) An individual who is receiving benefits pursuant to a federal program as set forth in subdivision (i) of this subdivision (a)(2)(H) shall not receive benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection except when and to the extent that the benefits provided by the applicable federal program are different from or are not in lieu of the benefits that are available pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection, in which case the benefits provided under subdivisions (2)(A)(ii)–(vi) of this subsection shall continue.

(iii) Nothing in this subdivision (a)(2)(H) shall be construed to prevent an individual from receiving benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection if the individual’s employer refuses or fails to pay the individual for leave under the federal Emergency Family and Medical Leave Expansion Act or the federal Emergency Paid Sick Leave Act.

* * *

(5) For any week with respect to which the individual is receiving or has received remuneration in the form of:

* * *

(F) Sick pay or pay received pursuant to the federal Emergency Family and Medical Leave Expansion Act or the federal Emergency Paid Sick Leave Act.

* * *

* * * Repeal of COVID-19 Related Unemployment Insurance Provisions * * *

Sec. 4. REPEAL

21 V.S.A. § 1325(a)(1)(G), (H), and (a)(3) are repealed.

Sec. 5. 21 V.S.A. § 1344 is amended to read:

§ 1344. DISQUALIFICATIONS

(a) An individual shall be disqualified for benefits:

* * *

(2) For any week benefits are claimed, except as provided in subdivision (a)(3) of this section, until he or she has presented evidence to the satisfaction of the Commissioner that he or she has performed services in employment for a bona fide employer and has had earnings in excess of six times his or her weekly benefit amount if the Commissioner finds that such individual is unemployed because:

(A) He or she has left the employ of his or her last employing unit voluntarily without good cause attributable to such employing unit. An individual shall not suffer more than one disqualification by reason of such separation. However, an individual shall not be disqualified for benefits if:

(i) the individual left such employment to accompany a spouse who:

(i) is on active duty with the U.S. Armed Forces and is required to relocate due to permanent change of station orders, activation orders, or unit deployment orders, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employing unit; or

(ii) holds a commission in the U.S. Foreign Service and is assigned overseas, and when such relocation would make it impractical or impossible, as determined by the Commissioner, for the individual to continue working for such employing unit;

~~(ii) The individual has left employment to self-isolate or quarantine at the recommendation of a healthcare provider, or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President for one of the following reasons:~~

~~(I) the individual has been diagnosed with COVID-19;~~

~~(II) the individual is experiencing the symptoms of COVID-19;~~

~~(III) the individual has been exposed to COVID-19; or~~

~~(IV) the individual belongs to a specific class or group of persons that have been identified as being at high risk if exposed to or infected with COVID-19.~~

~~(iii) The individual has left employment because of an unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual's place of employment.~~

~~(iv) The individual has left employment to care for or assist a family member of the individual who is self-isolating or quarantining at the recommendation of a healthcare provider or pursuant to a specific recommendation, directive, or order issued by a public health authority with jurisdiction, the Governor, or the President, for one of the following reasons:~~

~~(I) the family member has been diagnosed with COVID-19;~~

~~(II) the family member is experiencing the symptoms of COVID-19;~~

~~(III) the family member has been exposed to COVID-19; or~~

~~(IV) the family member belongs to a specific class or group of persons that have been identified as being at high-risk if exposed to or infected with COVID-19.~~

~~(v) the individual has left employment to care for or assist a family member who has left employment because of an unreasonable risk that they could be exposed to or become infected with COVID-19 at their place of employment; or~~

~~(v) The individual left such employment to care for a child under 18 years of age because the child's school or child care has been closed or the child care provider is unavailable due to a public health emergency related to COVID-19.~~

~~(H)(i) Except as otherwise provided pursuant to subdivision (2) of this subdivision (a)(2)(H), an unemployed individual who is eligible for benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection shall be ineligible for benefits under those subdivisions if the individual becomes eligible for benefits provided pursuant to:~~

~~(I) enacted federal legislation that amends or establishes a federal program providing benefits for unemployed individuals that are similar to the benefits provided pursuant to subdivisions (2)(A)(ii)–(vi); or~~

~~(II) a national emergency declared by the President that results in the provision of benefits pursuant to Disaster Unemployment Assistance, Emergency Unemployment Compensation, Extended Unemployment Compensation, or any similar type program.~~

~~(ii) An individual who is receiving benefits pursuant to a federal program as set forth in subdivision (i) of this subdivision (a)(2)(H) shall not receive benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection except when and to the extent that the benefits provided by the applicable federal program are different from or are not in lieu of the benefits that are available pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection, in which case the benefits provided under subdivisions (2)(A)(ii)–(vi) of this subsection shall continue.~~

~~(iii) Nothing in this subdivision (a)(2)(H) shall be construed to prevent an individual from receiving benefits pursuant to subdivisions (2)(A)(ii)–(vi) of this subsection if the individual’s employer refuses or fails to pay the individual for leave under the federal Emergency Family and Medical Leave Expansion Act or the federal Emergency Paid Sick Leave Act.~~

~~* * *~~

~~(G) As used in this subdivision (a)(2):~~

~~(i) “Family member” means an individual’s parent, grandparent, spouse, child, brother, sister, parent-in-law, grandchild, or foster child. As used in this subdivision (a)(2)(G)(i), “spouse” includes a domestic partner or civil union partner.~~

~~(ii) “An unreasonable risk that the individual could be exposed to or become infected with COVID-19 at the individual’s place of employment” shall include the individual’s place of employment being out of compliance with the Guidance on Preparing Workplaces for COVID-19 issued by the U.S. Occupational Safety and Health Administration (OSHA) or any similar guidance issued by OSHA, the U.S. Centers for Disease Control, or the Vermont Department of Health and any other conditions or factors that the Commissioner determines to create an unreasonable risk.~~

~~* * *~~

~~(5) For any week in which the individual is receiving or has received remuneration in the form of:~~

~~* * *~~

~~(F) Sick pay or pay received pursuant to the federal Emergency Family and Medical Leave Expansion Act or the federal Emergency Paid Sick Leave Act.~~

* * *

Sec. 6. 21 V.S.A. § 1346 is amended to read:

§ 1346. CLAIMS FOR BENEFITS; RULES; NOTICE

* * *

(c)(1) An employer shall post notice of how an unemployed individual can seek unemployment benefits in a form provided by the Commissioner in a place conspicuous to individuals performing services for the employer. The notice shall also advise individuals of their rights under the Domestic and Sexual Violence Survivor's Transitional Employment Program, established pursuant to chapter 16A of this title. The Commissioner shall provide a copy of the notice to an employer upon request without cost to the employer.

(2) An employer shall provide an individual with notification of the availability of unemployment compensation at the time of the individual's separation from employment. The notification may be based on model notification language provided by the U.S. Secretary of Labor.

* * * Effective Dates * * *

Sec. 7. EFFECTIVE DATES

(a) This section and Secs. 2, 3, and 6 shall take effect on passage.

(b) Sec. 1 shall take effect on July 1, 2020.

(c) Secs. 4 and 5 shall take effect on March 31, 2021.

**Proposal of amendment to H. 742 to be offered by Senators Lyons,
Cummings, Ingram, McCormack and Westman**

Senators Lyons, Cummings, Ingram, McCormack and Westman move that the Senate propose to the House to amend the bill by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Supporting Health Care and Human Service Provider Sustainability * * *

Sec. 1. AGENCY OF HUMAN SERVICES; HEALTH CARE AND HUMAN SERVICE PROVIDER SUSTAINABILITY

During a declared state of emergency in Vermont as a result of COVID-19, the Agency of Human Services shall consider waiving or modifying existing rules, or adopting emergency rules, to protect access to health care services, long-term services and supports, and other human services under the Agency's

jurisdiction. In waiving, modifying, or adopting rules, the Agency shall consider the importance of the financial viability of providers that rely on funding from the State, federal government, or Medicaid, or a combination of these, for a major portion of their revenue.

Sec. 2. AGENCY OF HUMAN SERVICES; TEMPORARY PROVIDER
TAX MODIFICATION AUTHORITY

(a) During a declared state of emergency in Vermont as a result of COVID-19 and for a period of six months following the termination of the state of emergency, the Secretary of Human Services may modify payment of all or a prorated portion of the assessment imposed on hospitals by 33 V.S.A. § 1953, and may waive or modify payment of all or a prorated portion of the assessment imposed by 33 V.S.A. chapter 19, subchapter 2 for one or more other classes of health care providers, if the following two conditions are met:

(1) the action is necessary to preserve the ability of the providers to continue offering necessary health care services; and

(2) the Secretary has obtained the approval of the Joint Fiscal Committee and the Emergency Board as set forth in subsections (b) and (c) of this section.

(b)(1) If the Secretary proposes to waive or modify payment of an assessment in accordance with the authority set forth in subsection (a) of this section, the Secretary shall first provide to the Joint Fiscal Committee:

(A) the Secretary's rationale for exercising the authority, including the balance between the fiscal impact of the proposed action on the State budget and the needs of the specific class or classes of providers; and

(B) a plan for mitigating the fiscal impact to the State.

(2) Upon the Joint Fiscal Committee's approval of the plan for mitigating the fiscal impact to the State, the Secretary may waive or modify payment of the assessment as proposed unless the mitigation plan includes one or more actions requiring the approval of the Emergency Board.

(c)(1) If the mitigation plan includes one or more actions requiring the approval of the Emergency Board, the Secretary shall obtain the Emergency Board's approval for the action or actions prior to waiving or modifying payment of the assessment.

(2) Upon the Emergency Board's approval of the action or actions, the Secretary may waive or modify payment of the assessment as proposed.

* * * Protections for Employees of Health Care Facilities
and Human Service Providers * * *

Sec. 3. PROTECTIONS FOR EMPLOYEES OF HEALTH CARE
FACILITIES AND HUMAN SERVICE PROVIDERS

In order to protect employees of a health care facility or human service provider who are not licensed health care professionals from the risks associated with COVID-19, all health care facilities and human service providers in Vermont, including hospitals, federally qualified health centers, rural health clinics, residential treatment programs, homeless shelters, home- and community-based service providers, and long-term care facilities, shall follow guidance from the Vermont Department of Health regarding measures to address employee safety, to the extent feasible.

* * * Compliance Flexibility * * *

Sec. 4. HEALTH CARE AND HUMAN SERVICE PROVIDER
REGULATION; WAIVER OR VARIANCE PERMITTED

Notwithstanding any provision of the Agency of Human Services' administrative rules or standards to the contrary, during a declared state of emergency in Vermont as a result of COVID-19, the Secretary of Human Services may waive or permit variances from the following State rules and standards governing providers of health care services and human services as necessary to prioritize and maximize direct patient care, support children and families who receive benefits and services through the Department for Children and Families, and allow for continuation of operations with a reduced workforce and with flexible staffing arrangements that are responsive to evolving needs, to the extent such waivers or variances are permitted under federal law:

- (1) Hospital Licensing Rule;
- (2) Hospital Reporting Rule;
- (3) Nursing Home Licensing and Operating Rule;
- (4) Home Health Agency Designation and Operation Regulations;
- (5) Residential Care Home Licensing Regulations;
- (6) Assisted Living Residence Licensing Regulations;
- (7) Home for the Terminally Ill Licensing Regulations;
- (8) Standards for Adult Day Services;
- (9) Therapeutic Community Residences Licensing Regulations;

- (10) Choices for Care High/Highest Manual;
- (11) Designated and Specialized Service Agency designation and provider rules;
- (12) Child Care Licensing Regulations;
- (13) Public Assistance Program Regulations;
- (14) Foster Care and Residential Program Regulations; and
- (15) other rules and standards for which the Agency of Human Services is the adopting authority under 3 V.S.A. chapter 25.

Sec. 5. GREEN MOUNTAIN CARE BOARD RULES; WAIVER OR
VARIANCE PERMITTED

Notwithstanding any provision of 18 V.S.A. chapter 220 or 221, 8 V.S.A. § 4062, 33 V.S.A. chapter 18, subchapter 1, or the Green Mountain Care Board's administrative rules, guidance, or standards to the contrary, during a declared state of emergency in Vermont as a result of COVID-19 and for a period of six months following the termination of the state of emergency, the Green Mountain Care Board may waive or permit variances from State laws, guidance, and standards with respect to the following regulatory activities, to the extent permitted under federal law, as necessary to prioritize and maximize direct patient care, safeguard the stability of health care providers, and allow for orderly regulatory processes that are responsive to evolving needs related to the COVID-19 pandemic:

- (1) hospital budget review;
- (2) certificates of need;
- (3) health insurance rate review; and
- (4) accountable care organization certification and budget review

Sec. 6. MEDICAID AND HEALTH INSURERS; PROVIDER
ENROLLMENT AND CREDENTIALING

During a declared state of emergency in Vermont as a result of COVID-19, to the extent permitted under federal law, the Department of Vermont Health Access shall relax provider enrollment requirements for the Medicaid program, and the Department of Financial Regulation shall direct health insurers to relax provider credentialing requirements for health insurance plans, in order to allow for individual health care providers to deliver and be reimbursed for services provided across health care settings as needed to respond to Vermonters' evolving health care needs.

Sec. 7. INVOLUNTARY TREATMENT; DOCUMENTATION AND
REPORTING REQUIREMENTS; WAIVER PERMITTED

(a) Notwithstanding any provision of statute or rule to the contrary, during a declared state of emergency in Vermont as a result of COVID-19, the court or the Department of Mental Health may waive any financial penalties associated with a treating health care provider's failure to comply with one or more of the documentation and reporting requirements related to involuntary treatment pursuant to 18 V.S.A. chapter 181, to the extent permitted under federal law.

(b) Nothing in this section shall be construed to suspend or waive any of the requirements in 18 V.S.A. chapter 181 relating to judicial proceedings for involuntary treatment and medication.

* * * Access to Health Care Services and Human Services * * *

Sec. 8. ACCESS TO HEALTH CARE SERVICES; DEPARTMENT OF
FINANCIAL REGULATION; EMERGENCY RULEMAKING

It is the intent of the General Assembly to increase Vermonters' access to medically necessary health care services during a declared state of emergency in Vermont as a result of COVID-19. During such a declared state of emergency, the Department of Financial Regulation shall consider adopting, and shall have the authority to adopt, emergency rules to address the following for the duration of the state of emergency:

(1) expanding health insurance coverage for, and waiving or limiting cost-sharing requirements directly related to, COVID-19 diagnosis, treatment, and prevention;

(2) modifying or suspending health insurance plan deductible requirements for all prescription drugs, except to the extent that such an action would disqualify a high-deductible health plan from eligibility for a health savings account pursuant to 26 U.S.C. § 223; and

(3) expanding patients' access to and providers' reimbursement for health care services, including preventive services, consultation services, and services to new patients, delivered remotely through telehealth, audio-only telephone, and brief telecommunication services.

Sec. 9. PRESCRIPTION DRUGS; MAINTENANCE MEDICATIONS;
EARLY REFILLS

(a) As used in this section, "health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined

in 18 V.S.A. § 9402. The term does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

(b) During a declared state of emergency in Vermont as a result of COVID-19, all health insurance plans and Vermont Medicaid shall allow their members to refill prescriptions for chronic maintenance medications early to enable the members to maintain a 30-day supply of each prescribed maintenance medication at home.

(c) As used in this section, “maintenance medication” means a prescription drug taken on a regular basis over an extended period of time to treat a chronic or long-term condition. The term does not include a regulated drug, as defined in 18 V.S.A. § 4201.

Sec. 10. PHARMACISTS; CLINICAL PHARMACY; EXTENSION OF PRESCRIPTION FOR MAINTENANCE MEDICATION

(a) During a declared state of emergency in Vermont as a result of COVID-19, a pharmacist may extend a previous prescription for a maintenance medication for which the patient has no refills remaining or for which the authorization for refills has recently expired if it is not feasible to obtain a new prescription or refill authorization from the prescriber.

(b) A pharmacist who extends a prescription for a maintenance medication pursuant to this section shall take all reasonable measures to notify the prescriber of the prescription extension in a timely manner.

(c) As used in this section, “maintenance medication” means a prescription drug taken on a regular basis over an extended period of time to treat a chronic or long-term condition. The term does not include a regulated drug, as defined in 18 V.S.A. § 4201.

Sec. 11. PHARMACISTS; CLINICAL PHARMACY; THERAPEUTIC SUBSTITUTION DUE TO LACK OF AVAILABILITY

(a) During a declared state of emergency in Vermont as a result of COVID-19, a pharmacist may, with the informed consent of the patient, substitute an available drug or insulin product for an unavailable prescribed drug or insulin product in the same therapeutic class if the available drug or insulin product would, in the clinical judgment of the pharmacist, have substantially equivalent therapeutic effect even though it is not a therapeutic equivalent.

(b) As soon as reasonably possible after substituting a drug or insulin product pursuant to subsection (a) of this section, the pharmacist shall notify the prescribing clinician of the drug or insulin product, dose, and quantity actually dispensed to the patient.

Sec. 12. BUPRENORPHINE; PRESCRIPTION RENEWALS

During a declared state of emergency in Vermont as a result of COVID-19, to the extent permitted under federal law, a health care professional authorized to prescribe buprenorphine for treatment of substance use disorder may authorize renewal of a patient's existing buprenorphine prescription without requiring an office visit.

Sec. 13. 24-HOUR FACILITIES AND PROGRAMS; BED-HOLD DAYS

During a declared state of emergency in Vermont as a result of COVID-19, to the extent permitted under federal law, the Agency of Human Services may reimburse Medicaid-funded long-term care facilities and other programs providing 24-hour per day services for their bed-hold days.

* * * Regulation of Professions * * *

Sec. 14. 3 V.S.A. § 129 is amended to read:

§ 129. POWERS OF BOARDS; DISCIPLINE PROCESS

(a) In addition to any other provisions of law, a board may exercise the following powers:

* * *

(10)(A) Issue temporary licenses during a declared state of emergency. The person to be issued a temporary license must be:

(i) currently licensed, in good standing, and not subject to disciplinary proceedings in any other jurisdiction; or

(ii) a graduate of an approved education program during a period when licensing examinations are not reasonably available.

(B) The temporary license shall authorize the holder to practice in Vermont until the termination of the declared state of emergency or 90 days, whichever occurs first, as long as provided the licensee remains in good standing, and may be reissued by the board if the declared state of emergency continues longer than 90 days.

(C) Fees shall be waived when a license is required to provide services under this subdivision.

* * *

Sec. 15. 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) During a declared state of emergency:

(A) The Board or the Executive Director of the Board may issue a temporary license to an individual who is currently licensed to practice as a physician, physician assistant, or podiatrist in another jurisdiction, whose license is in good standing, and who is not subject to disciplinary proceedings in any other jurisdiction. The temporary license shall authorize the holder to practice in Vermont until the termination of the declared state of emergency or 90 days, whichever occurs first, provided the licensee remains in good standing, and may be reissued by the Board if the declared state of emergency continues longer than 90 days. Fees shall be waived when a license is required to provide services under this subdivision (A).

(B) The Board or the Executive Director of the Board may waive supervision and scope of practice requirements for physician assistants, including the requirement for documentation of the relationship between a physician assistant and a physician pursuant to section 1735a of this title. The Board or Executive Director may impose limitations or conditions when granting a waiver under this subdivision (B).

Sec. 16. 26 V.S.A. § 1613 is amended to read:

§ 1613. TRANSITION TO PRACTICE

* * *

(c) The Board may waive or modify the collaborative provider agreement requirement as necessary to allow an APRN to practice independently during a declared state of emergency.

Sec. 17. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
MEDICAL PRACTICE; OUT-OF-STATE HEALTH CARE
PROFESSIONALS

(a) Notwithstanding any provision of Vermont's professional licensure statutes or rules to the contrary, during a declared state of emergency in Vermont as a result of COVID-19, a health care professional, including a mental health professional, who holds a valid license, certificate, or registration to provide health care services in any other U.S. jurisdiction shall be deemed to be licensed, certified, or registered to provide health care services, including mental health services, to a patient located in Vermont using telehealth or as part of the staff of a licensed facility, provided the health care professional:

(1) is licensed, certified, or registered in good standing in the other U.S. jurisdiction or jurisdictions in which the health care professional holds a license, certificate, or registration;

(2) is not subject to any professional disciplinary proceedings in any other U.S. jurisdiction; and

(3) is not affirmatively barred from practice in Vermont for reasons of fraud or abuse, patient care, or public safety.

(b) A health care professional who plans to provide health care services in Vermont as part of the staff of a licensed facility shall submit or have submitted on the individual's behalf the individual's name, contact information, and the location or locations at which the individual will be practicing to:

(1) the Board of Medical Practice for medical doctors, physician assistants, and podiatrists; or

(2) the Office of Professional Regulation for all other health care professions.

(c) A health care professional who delivers health care services in Vermont pursuant to subsection (a) of this section shall be subject to the imputed jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable based on the health care professional's profession, in accordance with Sec. 19 of this act.

(d) This section shall remain in effect until the termination of the declared state of emergency in Vermont as a result of COVID-19 and provided the health care professional remains licensed, certified, or registered in good standing.

Sec. 18. RETIRED HEALTH CARE PROFESSIONALS; BOARD OF MEDICAL PRACTICE; OFFICE OF PROFESSIONAL REGULATION

(a)(1) During a declared state of emergency in Vermont as a result of COVID-19, a former health care professional, including a mental health professional, who retired not more than three years earlier with the individual's Vermont license, certificate, or registration in good standing may provide health care services, including mental health services, to a patient located in Vermont using telehealth or as part of the staff of a licensed facility after submitting, or having submitted on the individual's behalf, to the Board of Medical Practice or Office of Professional Regulation, as applicable, the individual's name, contact information, and the location or locations at which the individual will be practicing.

(2) A former health care professional who returns to the Vermont health care workforce pursuant to this subsection shall be subject to the regulatory jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable.

(b) During a declared state of emergency in Vermont as a result of COVID-19, the Board of Medical Practice and the Office of Professional Regulation may permit former health care professionals, including mental health professionals, who retired more than three but less than 10 years earlier with their Vermont license, certificate, or registration in good standing to return to the health care workforce on a temporary basis to provide health care services, including mental health services, to patients in Vermont. The Board of Medical Practice and Office of Professional Regulation may issue temporary licenses to these individuals at no charge and may impose limitations on the scope of practice of returning health care professionals as the Board or Office deems appropriate.

Sec. 19. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
MEDICAL PRACTICE; IMPUTED JURISDICTION

A practitioner of a profession or professional activity regulated by Title 26 of the Vermont Statutes Annotated who provides regulated professional services to a patient in the State of Vermont without holding a Vermont license, as may be authorized in a declared state of emergency, is deemed to consent to, and shall be subject to, the regulatory and disciplinary jurisdiction of the Vermont regulatory agency or body having jurisdiction over the regulated profession or professional activity.

Sec. 20. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
MEDICAL PRACTICE; EMERGENCY AUTHORITY TO ACT
FOR REGULATORY BOARDS

(a)(1) During a declared state of emergency in Vermont as a result of COVID-19, if the Director of Professional Regulation finds that a regulatory body attached to the Office of Professional Regulation by 3 V.S.A. § 122 cannot reasonably, safely, and expeditiously convene a quorum to transact business, the Director may exercise the full powers and authorities of that regulatory body, including disciplinary authority.

(2) During a declared state of emergency in Vermont as a result of COVID-19, if the Executive Director of the Board of Medical Practice finds that the Board cannot reasonably, safely, and expeditiously convene a quorum to transact business, the Executive Director may exercise the full powers and authorities of the Board, including disciplinary authority.

(b) The signature of the Director of the Office of Professional Regulation or of the Executive Director of the Board of Medical Practice shall have the same force and effect as a voted act of their respective boards.

(c)(1) A record of the actions of the Director of the Office of Professional Regulation taken pursuant to the authority granted by this section shall be published conspicuously on the website of the regulatory body on whose behalf the Director took the action.

(2) A record of the actions of the Executive Director of the Board of Medical Practice taken pursuant to the authority granted by this section shall be published conspicuously on the website of the Board of Medical Practice.

Sec. 21. OFFICE OF PROFESSIONAL REGULATION; BOARD OF
MEDICAL PRACTICE; EMERGENCY REGULATORY ORDERS

During a declared state of emergency in Vermont as a result of COVID-19, the Director of Professional Regulation and the Commissioner of Health may issue such orders governing regulated professional activities and practices as may be necessary to protect the public health, safety, and welfare. If the Director or Commissioner finds that a professional practice, act, offering, therapy, or procedure by persons licensed or required to be licensed by Title 26 of the Vermont Statutes Annotated is exploitative, deceptive, or detrimental to the public health, safety, or welfare, or a combination of these, the Director or Commissioner may issue an order to cease and desist from the applicable activity, which, after reasonable efforts to publicize or serve the order on the affected persons, shall be binding upon all persons licensed or required to be licensed by Title 26 of the Vermont Statutes Annotated, and a violation of the order shall subject the person or persons to professional discipline, may be a basis for injunction by the Superior Court, and shall be deemed a violation of 3 V.S.A. § 127.

* * * Quarantine and Isolation for COVID-19 as Exception to Seclusion * * *

Sec. 22. ISOLATION OR QUARANTINE FOR COVID-19 NOT
SECLUSION

(a) Notwithstanding any provision of statute or rule to the contrary, it shall not be considered the emergency involuntary procedure of seclusion for a voluntary patient, or for an involuntary patient in the care and custody of the Commissioner of Mental Health, to be placed in quarantine if the patient has been exposed to COVID-19 or in isolation if the patient has tested positive for COVID-19.

(b) Notwithstanding any provision of statute or rule to the contrary, it shall not be considered seclusion, as defined in the Department for Children and

Families' Licensing Regulations for Residential Treatment Programs in Vermont, for a child in a residential treatment facility to be placed in quarantine if the child has been exposed to COVID-19 or in isolation if the child has tested positive for COVID-19.

* * * Telehealth * * *

Sec. 23. TELEHEALTH EXPANSION; LEGISLATIVE INTENT

It is the intent of the General Assembly to increase Vermonters' access to health care services through an expansion of telehealth services without increasing social isolation or supplanting the role of local, community-based health care providers throughout rural Vermont.

Sec. 24. 8 V.S.A. § 4100k is amended to read:

§ 4100k. COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEMEDICINE AND BY STORE-AND-FORWARD MEANS

(a)(1) All health insurance plans in this State shall provide coverage for health care services and dental services delivered through telemedicine by a health care provider at a distant site to a patient at an originating site to the same extent that the plan would cover the services if they were provided through in-person consultation.

(2)(A) A health insurance plan shall provide the same reimbursement rate for services billed using equivalent procedure codes and modifiers, subject to the terms of the health insurance plan and provider contract, regardless of whether the service was provided through an in-person visit with the health care provider or through telemedicine.

(B) The provisions of subdivision (A) of this subdivision (2) shall not apply to services provided pursuant to the health insurance plan's contract with a third-party telemedicine vendor to provide health care or dental services.

(b) A health insurance plan may charge a deductible, co-payment, or coinsurance for a health care service or dental service provided through telemedicine ~~so~~ as long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.

(c) A health insurance plan may limit coverage to health care providers in the plan's network. A health insurance plan shall not impose limitations on the number of telemedicine consultations a covered person may receive that exceed limitations otherwise placed on in-person covered services.

(d) Nothing in this section shall be construed to prohibit a health insurance plan from providing coverage for only those services that are medically necessary and are clinically appropriate for delivery through telemedicine, subject to the terms and conditions of the covered person's policy.

~~(e) A health insurance plan may reimburse for teleophthalmology or teledermatology provided by store and forward means and may require the distant site health care provider to document the reason the services are being provided by store and forward means.~~

(1) A health insurance plan shall reimburse for health care services and dental services delivered by store-and-forward means.

(2) A health insurance plan shall not impose more than one cost-sharing requirement on a patient for receipt of health care services or dental services delivered by store-and-forward means. If the services would require cost-sharing under the terms of the patient's health insurance plan, the plan may impose the cost-sharing requirement on the services of the originating site health care provider or of the distant site health care provider, but not both.

(f) A health insurer shall not construe a patient's receipt of services delivered through telemedicine or by store-and-forward means as limiting in any way the patient's ability to receive additional covered in-person services from the same or a different health care provider for diagnosis or treatment of the same condition.

(g) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.

~~(g)~~(h) In order to facilitate the use of telemedicine in treating substance use disorder, when the originating site is a health care facility, health insurers and the Department of Vermont Health Access shall ensure that the health care provider at the distant site and the health care facility at the originating site are both reimbursed for the services rendered, unless the health care providers at both the distant and originating sites are employed by the same entity.

~~(h)~~(i) As used in this subchapter:

* * *

(2) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, ~~as well as; a stand-alone dental plan or policy or other dental insurance plan offered by a dental insurer; and~~ Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or

instrumentality of the State. The term does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

* * *

(4) “Health care provider” means a person, partnership, or corporation, other than a facility or institution, that is licensed, certified, or otherwise authorized by law to provide professional health care services, including dental services, in this State to an individual during that individual’s medical care, treatment, or confinement.

* * *

(6) “Store and forward” means an asynchronous transmission of medical information, such as one or more video clips, audio clips, still images, x-rays, magnetic resonance imaging scans, electrocardiograms, electroencephalograms, or laboratory results, sent over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104–191 to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty and by which. In store and forward, the health care provider at the distant site reviews the medical information without the patient present in real time and communicates a care plan or treatment recommendation back to the patient or referring provider, or both.

(7) “Telemedicine” means the delivery of health care services, including dental services, such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law Pub. L. No. 104-191. ~~Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.~~

Sec. 25. 18 V.S.A. § 9361 is amended to read:

§ 9361. HEALTH CARE PROVIDERS DELIVERING HEALTH CARE SERVICES THROUGH TELEMEDICINE OR BY STORE AND FORWARD STORE-AND-FORWARD MEANS

* * *

(c)(1) A health care provider delivering health care services or dental services through telemedicine shall obtain and document a patient’s oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient.

(A) The informed consent for telemedicine services shall be provided in accordance with Vermont and national policies and guidelines on the

appropriate use of telemedicine within the provider's profession and shall include, in language that patients can easily understand:

(i) an explanation of the opportunities and limitations of delivering health care services or dental services through telemedicine;

(ii) informing the patient of the presence of any other individual who will be participating in or observing the patient's consultation with the provider at the distant site and obtaining the patient's permission for the participation or observation; and

(iii) assurance that all services the health care provider delivers to the patient through telemedicine will be delivered over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

* * *

~~(e) A patient receiving teleophthalmology or teledermatology by store and forward means shall be informed of the right to receive a consultation with the distant site health care provider and shall receive a consultation with the distant site health care provider upon request. If requested, the consultation with the distant site health care provider may occur either at the time of the initial consultation or within a reasonable period of time following the patient's notification of the results of the initial consultation. Receiving teledermatology or teleophthalmology by store and forward means.~~

(1) A patient receiving health care services or dental services by store-and-forward means shall be informed of the patient's right to refuse to receive services in this manner and to request services in an alternative format, such as through real-time telemedicine services or an in-person visit.

(2) Receipt of services by store-and-forward means shall not preclude a patient from receiving real time real-time telemedicine or face-to-face services or an in-person visit with the distant site health care provider at a future date.

(3) Originating site health care providers involved in the store-and-forward store-and-forward process shall obtain informed consent from the patient as described in subsection (c) of this section.

Sec. 26. WAIVER OF CERTAIN TELEHEALTH REQUIREMENTS DURING STATE OF EMERGENCY

Notwithstanding any provision of 8 V.S.A. § 4100k or 18 V.S.A. § 9361 to the contrary, during a declared state of emergency in Vermont as a result of COVID-19, the following provisions related to the delivery of health care

services through telemedicine or by store-and-forward means shall not be required, to the extent their waiver is permitted by federal law:

(1) delivering health care services, including dental services, using a connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 in accordance with 8 V.S.A. § 4100k(i), as amended by this act, if it is not practicable to use such a connection under the circumstances;

(2) representing to a patient that the health care services, including dental services, will be delivered using a connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 in accordance with 18 V.S.A. § 9361(c), if it is not practicable to use such a connection under the circumstances; and

(3) obtaining and documenting a patient's oral or written informed consent for the use of telemedicine or store-and-forward technology prior to delivering services to the patient in accordance with 18 V.S.A. § 9361(c), if obtaining or documenting such consent, or both, is not practicable under the circumstances.

Sec. 27. TELEMEDICINE REIMBURSEMENT; SUNSET

8 V.S.A. § 4100k(a)(2) (telemedicine reimbursement) is repealed on January 1, 2026.

* * * Child Care Programs; Extraordinary Financial Relief * * *

Sec. 28. SUPPLEMENTAL CHILD CARE GRANTS; TEMPORARY SUSPENSION OF CAP

Notwithstanding the provision in 33 V.S.A. § 3505(a) that enables the Commissioner for Children and Families to reserve not more than one-half of one percent of the Child Care Financial Assistance Program (CCFAP) appropriation for extraordinary financial relief to assist child care programs that are at risk of closing due to financial hardship, the Commissioner may direct a greater percentage of the fiscal year 2020 CCFAP appropriation for this purpose while the state of emergency related to COVID-19 is in effect.

* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES

This act shall take effect on passage, except that in Sec. 24, 8 V.S.A. § 4100k(e) (coverage of health care services delivered by store-and-forward means) shall take effect on January 1, 2021.

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

An act relating to Vermont's response to COVID-19.

Proposal of amendment to H. 742 to be offered by Senators Mazza, Ashe, Kitchel, McNeil and Perchlik

Senators Mazza, Ashe, Kitchel, McNeil and Perchlik move that the Senate propose to the House to amend the bill as follows:

By adding three new sections to read as follows:

* * * Motor Vehicles * * *

Sec. 1. PHOTOGRAPHS FOR RENEWALS

(a) Notwithstanding any provision of 23 V.S.A. § 115(g), 610(c), or 617(e) to the contrary, a licensee shall be permitted to renew a driver's license, learner's permit, privilege to operate, or non-driver identification card with a photograph obtained not more than 16 years earlier that is compliant with the federal REAL ID Act, 6 C.F.R. part 37.

(b) Notwithstanding 1 V.S.A. § 214, subsection (a) of this section shall take effect retroactively on March 20, 2020 and continue in effect until the termination of the state of emergency declared by the Governor as a result of COVID-19.

Sec. 2. EXTENSIONS

(a) Notwithstanding any provision of 23 V.S.A. § 312, 457, 458, 3702 or 3703 to the contrary, all International Registration Plan trip permits and temporary authorizations, temporary registration certificates, and temporary number plates shall be valid for 90 days from the date of issuance.

(b) Notwithstanding any provision of Title 23 of the Vermont Statutes Annotated or rules adopted pursuant to Title 23 to the contrary, the Commissioner of Motor Vehicles may extend any existing permits issued by the Department of Motor Vehicles, excluding International Registration Plan trip permits, for an additional 90 days.

(c) Notwithstanding any provision of 23 V.S.A. § 115, 302, 304a, 305, 601, or 617 to the contrary, the Commissioner shall extend all of the following for an additional 90 days after expiration: driver's licenses; learner's permits; privileges to operate; non-driver identification cards; registrations; and registration plates or placards for an individual with a disability.

(d) Notwithstanding 1 V.S.A. § 214, subsections (a) and (b) of this section shall take effect retroactively on March 20, 2020 and continue in effect until the termination of the state of emergency declared by the Governor as a result of COVID-19.

(e) Notwithstanding 1 V.S.A. § 214, subsection (c) of this section shall take effect retroactively on March 17, 2020 and continue in effect until the termination of the state of emergency declared by the Governor as a result of COVID-19.

Sec. 3. USE OF EIGHT-LIGHT SYSTEM ON SCHOOL BUSES

(a) Notwithstanding any provision of 23 V.S.A. § 1283(a)(4) to the contrary, the driver of a Type I or a Type II school bus may keep the alternately flashing red signal lamps of an eight-light system lighted when making deliveries of food to school aged children.

(b) Notwithstanding 1 V.S.A. § 214, subsection (a) of this section shall take effect retroactively on March 20, 2020 and continue in effect until the termination of the state of emergency declared by the Governor as a result of COVID-19.

And by renumbering the sections to be numerically correct.

Proposal of amendment to H. 742 to be offered by Senator Sears

Senator Sears moves that the Senate propose to the House to amend the bill as follows:

By adding a new Sec. 1 to read as follows:

Sec. 1. 14 V.S.A. § 5 is amended to read:

§ 5. EXECUTION OF WILL; REQUISITES

(a) A will shall be:

(1) in writing;

(2) signed in the presence of two or more credible witnesses by the testator or in the testator's name by some other person in the testator's presence and by the testator's express direction; and

(3) attested and subscribed by the witnesses in the presence of the testator and each other.

(b) During the period that the Emergency Administrative Rules for Remote Notarial Acts adopted by the Vermont Secretary of State ("the Emergency Rules") are in effect, the witnesses to a will signed in conformity with the Emergency Rules and pursuant to the self-proving will provisions of section

108 of this title shall be considered to be in the presence of the testator and each other whether or not the witnesses are physically present with the testator or the notary.

And by renumbering the sections to be numerically correct.