

Senate Calendar

FRIDAY, MAY 1, 2020

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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.)

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UNFINISHED BUSINESS OF MARCH 12, 2020

Second Reading

Favorable

S. 287.

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

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

UNFINISHED BUSINESS OF 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 department of students attending public schools.

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

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

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

supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title.

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

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

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

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

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

§ 167. HIGH SCHOOL EQUIVALENCE CERTIFICATE

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

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

§ 175. POSTSECONDARY EDUCATIONAL INSTITUTIONS;
CLOSING

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

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

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

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

* * *

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

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

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

* * *

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

§ 176. POSTSECONDARY SCHOOLS CHARTERED IN VERMONT

* * *

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

* * *

(4) Postsecondary schools that are accredited. The following postsecondary institutions are accredited, meet the criteria for exempt status,

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

* * *

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

* * *

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

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

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

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

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

the Secretary of Education and all references to the Department of Education shall be deemed to refer to the Agency of Education.

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

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

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

* * *

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

§ 133. SUPERVISOR; COMPREHENSIVE HEALTH EDUCATION

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

* * *

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

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

* * *

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

* * *

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

§ 242. DUTIES OF SUPERINTENDENTS

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

* * *

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

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

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

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

* * *

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

§ 244. DUTIES OF PRINCIPALS

* * *

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

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

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

* * *

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

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

§ 261a. DUTIES OF SUPERVISORY UNION BOARD

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

* * *

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

* * *

(6) Provide special education services on behalf of its member districts and, except as provided in section 43 of this title, compensatory and remedial services, and provide or coordinate the provision of other educational services as directed by the ~~State Board~~ Secretary or local boards; provided, however, if a supervisory union determines that services would be provided more efficiently and effectively in whole or in part at the district level, then it may ask the Secretary to grant it a waiver from this provision.

* * *

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

§ 471. APPLICATION OF OTHER LAWS

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

* * *

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

§ 551. APPLICATION OF LAWS TO SCHOOL DISTRICTS

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

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

§ 559. PUBLIC BIDS

* * *

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

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

* * *

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

* * *

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

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

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

§ 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE

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

* * *

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

* * *

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

* * *

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

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

* * *

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

§ 570. HARASSMENT, HAZING, AND BULLYING PREVENTION
POLICIES

* * *

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

* * *

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

* * *

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

§ 701a. APPLICATION OF OTHER LAWS

* * *

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

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

§ 829. PREKINDERGARTEN EDUCATION

* * *

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

* * *

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

* * *

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

§ 1045. DRIVER TRAINING COURSE

(a) A driver education and training course, approved by the Agency of Education and the Department of Motor Vehicles shall be made available to students whose parent or guardian is a resident of Vermont and who have reached their 15th birthday and who are regularly enrolled in a public or independent high school approved by the ~~State Board~~ Secretary of Education.

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

* * *

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

§ 1071. SCHOOL YEAR AND SCHOOL DAY

* * *

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

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

* * *

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

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

§ 1162. SUSPENSION OR EXPULSION OF STUDENTS

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

* * *

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

§ 1165. ALCOHOL AND DRUG ABUSE

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

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

(c) Each school district shall adopt its own policy consistent with the ~~State Board's~~ Agency rules setting forth: recommended procedures for education; referral for treatment, counseling, and rehabilitation; and standards consistent

with due process of law for discipline, suspension, or dismissal of students in accordance with section 1162 of this title. Nothing in this section is intended to mandate local school districts to employ counselors for treatment or rehabilitation.

* * *

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

§ 1224. REPORTS

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

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

§ 1262b. RULES

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

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

§ 1321. FORM AND CONTENTS OF REGISTER

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

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

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

(a) As used in this section:

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

* * *

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

* * *

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

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

§ 1522. DEFINITIONS

As used in this chapter:

* * *

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

* * *

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

§ 1531. RESPONSIBILITY OF ~~STATE BOARD~~ SECRETARY OF EDUCATION

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

* * *

~~(b) In order to provide regional career technical education services efficiently, the State Board shall designate a service region for each career technical center. However, the Board may designate a service region for two~~

~~or more comprehensive high schools if that region is not served by a career technical center.~~

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

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

§ 1531a. RESPONSIBILITY OF STATE BOARD

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

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

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

§ 1532. MINIMUM STANDARDS; MEASUREMENT OF STANDARDS

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

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

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

* * *

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

§ 1533. CAREER TECHNICAL CENTER EVALUATION

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

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

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

* * *

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

§ 1534. COURSE OF STUDY EVALUATION

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

* * *

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

§ 1544. CAREER TECHNICAL COURSES IN OTHER SCHOOLS

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

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

§ 1545. CREDITS AND GRADES EARNED

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

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

* * *

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

§ 1552. SECONDARY STUDENT TUITION

(a) Each career technical center shall establish a tuition charge for secondary career technical education. The amount shall reflect the actual cost, as defined by Agency rule ~~of the State Board~~, of attendance in the career technical courses offered by the center. The tuition charge shall be reduced proportionally for students enrolled in a part-time program.

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

* * *

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

§ 1562. TRYOUT CLASSES

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

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

§ 1563. TRANSPORTATION ASSISTANCE

* * *

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

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

§ 1565. SALARY ASSISTANCE

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

* * *

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

* * *

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

§ 1568. REPORTING OF INFORMATION

(a) Annually, in accordance with a time line, format, and process established by ~~State Board~~ Agency rule, each CTE center shall report its costs and student enrollment, achievement, and performance measures to the Secretary. CTE center financial accounts shall be kept separately from those of the host high school in accordance with rules adopted by the ~~State Board~~ Secretary, which shall clearly delineate relevant costs and revenues.

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

The Secretary may waive the \$100.00 penalty upon appeal by the center for good cause.

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

§ 1577. DUTIES AND AUTHORITY OF ALTERNATIVE GOVERNANCE BOARD

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

* * *

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

* * *

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

§ 1601. DEFINITIONS

As used in this chapter:

* * *

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

* * *

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

* * *

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

§ 1602. SCHOOL BOARD RESPONSIBILITIES

* * *

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

* * *

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

* * *

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

§ 1603. ELEMENTS OF THE PROGRAM

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

* * *

(f) A student apprentice who successfully completes a student apprenticeship program shall receive an industry competency certificate issued by the ~~State Board of Education~~ Secretary. In order to earn an industry competency certificate, a student apprentice shall demonstrate mastery of industry competency standards and shall complete academic requirements for graduation.

* * *

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

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

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

* * *

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

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

§ 1605. REGIONAL ADVISORY BOARD RESPONSIBILITIES

Each regional advisory board shall:

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

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

* * *

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

§ 1931. DEFINITIONS

As used in this chapter:

* * *

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

* * *

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

§ 1935. TEACHERS IN CERTAIN PUBLIC OR INDEPENDENT SCHOOLS

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

* * *

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

§ 2903. PREVENTING EARLY SCHOOL FAILURE; READING INSTRUCTION

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

* * *

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

§ 2905. PREKINDERGARTEN-16 COUNCIL

* * *

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

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

§ 2944. SPECIAL EDUCATION

(a)-(c) [Repealed.]

(d) The Secretary ~~with the advice of the State Board~~ may make grants for programs and may make grants, subject to conditions the Secretary shall establish, to persons whom he or she finds qualified for either part-time or full-

time study in programs designed to qualify them as special education personnel.

* * *

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

§ 2945. ADVISORY COUNCIL ON SPECIAL EDUCATION

* * *

(d) The Council shall:

* * *

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

* * *

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

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

§ 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL PLACEMENTS

* * *

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

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

§ 2973. INDEPENDENT SCHOOL TUITION RATES

* * *

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

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

§ 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

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

* * *

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

§ 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

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

* * *

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

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

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

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

* * *

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

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

(a) Construction aid.

(1) Preliminary application for construction aid. A district or independent school eligible for assistance under section 3447 of this title, that intends to construct or purchase a new school, or make extensive additions or alterations to its existing school, and desires to avail itself of State school construction aid, shall submit a written preliminary application to the Secretary. A preliminary application shall include information required by the ~~State Board~~ Secretary by rule and shall specify the need for and purpose of the project.

(2) Approval of preliminary application.

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

* * *

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

* * *

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

* * *

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

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

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

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

(5) Final approval for construction aid.

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

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

* * *

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

* * *

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

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

* * *

(8) Eligible construction cost.

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

* * *

(9) Payment. Upon satisfactory evidence that a project approved under subdivision (5) of this subsection (a) is under construction or has been constructed, and upon appropriation of funds sufficient to fund the State aid due under this section, the ~~State Board~~ Secretary shall certify an award for the project to the Commissioner of Finance and Management who shall issue a warrant for the payment of one-half of the award, or the entire award if the project is complete. After a project has been completed according to approved plans and specifications and the cost thereof has been audited by the Agency, the Secretary shall certify the remainder of the award due for the project to the Commissioner of Finance and Management who shall issue a warrant for the payment. Provided, however, if a project that is included on a prioritized list, for which list the General Assembly has appropriated funds in any year, is not

eligible to be certified for one-half of the award or for the entire award, and if another project of lesser priority is eligible for certification, nothing in this section shall preclude the State Board Secretary from certifying an award for the lesser priority project prior to the higher priority project.

* * *

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

* * *

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

§ 3448a. APPEAL

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

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

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

(a) Definitions. As used in this section:

(1) “Cost-saving measure” means any facility improvement, repair, or alteration or any equipment, fixture, or furnishing to be constructed or installed in any facility that is designed to reduce energy consumption and operating costs or to increase the operating efficiency of facilities for their appointed functions, that is cost effective, and that is further defined by State Board Agency rule.

* * *

(f) State funding for energy conservation measures.

* * *

(3) Priorities. Following approval of a district’s application, the State Board Secretary shall assign points, established by Board Agency rule, to the project so that the project can be placed on a priority list distinct from but similar to the list established under section 3448 of this title, based on the number of points received. Once a project receives points, if it does not receive funding in a given year, it shall not lose points in subsequent years and,

pursuant to ~~Board~~ Agency rule and provided the scope of the project remains the same, it shall gain points due to the length of time on the list and may gain points for any other reason. Prioritized projects under this section shall be included in the ~~State Board's~~ Secretary's request for legislative appropriation as a separate and distinct line item under section 3448 of this title. Any legislative appropriation made to fund the line item for performance contracts shall not exceed 20 percent of the appropriation made in the same year to fund State aid for school construction under section 3448.

* * *

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

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

* * *

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

§ 3454. DEFERRED MAINTENANCE

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

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

§ 3581. ACCEPTANCE

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

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

§ 3582. FORMULATION OF PLANS

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

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

§ 4001. DEFINITIONS

As used in this chapter:

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

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

(B) The full-time equivalent enrollment in the year before the last census period, of any State-placed students as defined in subdivision 11(a)(28) of this title. A school district that provides for the education of its students by paying tuition to an approved independent school or public school outside the district shall not count a State-placed student for whom it is paying tuition for purposes of determining average daily membership. A school district that is receiving the full amount, as defined by the ~~State Board~~ Secretary by rule, of the student’s education costs under subsection 2950(a) of this title, shall not count the student for purposes of determining average daily membership. A State-placed student who is counted in average daily membership shall be counted as a student for the purposes of determining weighted student count.

* * *

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

federal funds, nongovernmental grants, or other State funds such as special education funds paid under chapter 101 of this title.

(A) [Repealed.]

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

* * *

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

* * *

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

§ 4015. SMALL SCHOOL SUPPORT

(a) In this section:

(1) “Eligible school district” means a school district that:

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

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

* * *

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

§ 4016. REIMBURSEMENT FOR TRANSPORTATION EXPENDITURES

* * *

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

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

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

§ 4030. DATA SUBMISSION; CORRECTIONS

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

* * *

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

Sec. 69. EFFECTIVE DATES

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

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

An act relating to reforming the State Board of Education.

(Committee vote: 6-0-0)

S. 190.

An act relating to the Standard Offer Program.

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

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

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

§ 8009. BASELOAD RENEWABLE POWER PORTFOLIO
REQUIREMENT

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

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

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

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

(4) [Repealed.]

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

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

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

“avoided cost” also includes the Commission’s consideration of each of the following:

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

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

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

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

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

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

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

(8) The fuel supply for the proposed plant is obtained from ecologically sound and sustainable sources. In the case of biomass, this shall include an assessment of whether fuel supplies use ecologically sound harvesting practices and whether they promote a diverse and sustainable forest economy in the region.

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

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

* * *

(i) The State and its instrumentalities shall not be liable to a plant owner or retail electricity provider with respect to any matter related to the baseload renewable power portfolio requirement or a plant used to satisfy such requirement, including costs associated with a contract related to such a plant

or any damages arising from the breach of such a contract, the flow of power between a plant and the electric grid, or the interconnection of a plant to that grid. For the purpose of this section, the Commission and the Standard Offer Facilitator constitute instrumentalities of the State.

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

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

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

Sec. 2. TRANSITION PROVISION

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

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 7-0-0)

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)

UNFINISHED BUSINESS OF MARCH 24, 2020

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; ~~;~~

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

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

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

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

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

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

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

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

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

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

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

Sec. 5. 8 V.S.A. § 4724 is amended to read:

§ 4724. UNFAIR METHODS OF COMPETITION OR UNFAIR OR
DECEPTIVE ACTS OR PRACTICES DEFINED

The following are hereby defined as unfair methods of competition or unfair or deceptive acts or practices in the business of insurance:

* * *

(7) Unfair discrimination; arbitrary underwriting action.

* * *

(D) Making or permitting any unfair discrimination against any individual by conditioning insurance rates, the provision or renewal of insurance coverage, or other conditions of insurance based on medical information, ~~including the results of genetic testing,~~ where there is not a relationship between the medical information and the cost of the insurance risk that the insurer would assume by insuring the proposed insured. In

demonstrating the relationship, the insurer can rely on actual or reasonably anticipated experience. ~~As used in this subdivision, “genetic testing” shall be defined as the term is defined in 18 V.S.A. § 9331(7).~~

* * *

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

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

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

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

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

* * *

(22) Genetic testing.

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

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

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

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

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

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

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

§ 8086. PREEXISTING CONDITIONS; GENETIC TESTING

* * *

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

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

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

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

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

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

* * *

(Committee vote: 4-1-0)

UNFINISHED BUSINESS OF MARCH 27, 2020

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 Star 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.

Second Reading

Favorable with Recommendation of Amendment

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 % of 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. 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. 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)

Amendment to S. 234 to be offered by Senator Sears

Senator Sears moves to amend the bill by adding three new Sections to read as follows:

Sec. 31. 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. 32. 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. 33. 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.

And by renumbering the remaining section to be numerically correct.

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~~ ~~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 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.

(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. 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. 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. 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)

NOTICE CALENDAR

Committee Bill for Second Reading

S. 346.

An act relating to creating the COVID-19 Essential Employees Hazard Grant Program.

By the Committee on Appropriations. (Senator Kitchel for the Committee.)

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

Text of bill is as follows:

S.346

An act relating to creating the COVID-19 Essential Employees Hazard Grant Program

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. DEFINITIONS

As used in Secs. 1–13 of this act:

(1)(A) “Covered employer” means an entity that employs one or more individuals in Vermont in relation to its operation of one of the following:

(i) a grocery store;

(ii) a pharmacy;

(iii) a retailer identified as essential in Sec. 6, paragraphs f and h of addendum 6 to Executive Order 01-20, provided that the majority of the retail establishment is open to the general public for in-person sales rather than curbside pickup or delivery;

(iv) a wholesale distributor making deliveries to a retailer described in subdivisions (i)–(iii) of this subdivision (1)(A);

(v) a trash collection or waste management service;

(vi) a janitorial service that provides cleaning or janitorial services to another covered employer;

(vii) an assisted living residence as defined in 33 V.S.A. § 7102;

(viii) a nursing home as defined in 33 V.S.A. § 7102;

(ix) a residential care home as defined in 33 V.S.A. § 7102;

(x) a therapeutic community residence as defined in 33 V.S.A. § 7102;

(xi) a health care facility as defined in 18 V.S.A. § 9432 or a physician's office;

(xii) a child care facility as defined in 33 V.S.A. § 3511 that is providing child care services to essential service providers pursuant to Directive 2 of Executive Order 01-20;

(xiii) a vocational rehabilitation service provider;

(xiv) a dentist's office or a dental facility;

(xv) a homeless shelter;

(xvi) a home health agency as defined in 33 V.S.A. § 6302;

(xvii) a federally qualified health center, rural health clinic, or clinic for the uninsured;

(xviii) a program licensed by the Department for Children and Families as a residential treatment program;

(xix) an ambulance service or first responder service as defined in 24 V.S.A. § 2651;

(xx) a funeral establishment or crematory establishment as defined in 26 V.S.A. § 1211; or

(xxi) providers of necessities and services to vulnerable or disadvantaged populations.

(B) "Covered employer" does not include the State, a political subdivision of the State, or the United States.

(2)(A) "Eligible employee" means an individual who:

(i) is employed by a covered employer that has enrolled in the Program;

(ii) performs a job whose principal function is to:

(I) provide in-person services to members of the public or clients;

(II) clean or sanitize the premises of a covered employer in a location that is open to the general public;

(III) stock products on the premises of a retailer described in subdivisions (1)(A)(i)–(iii) of this section in a location that is open to the general public; or

(IV) perform activities that would reasonably result in a similarly elevated risk of being exposed to or contracting COVID-19;

(iii) is unable to perform his or her job remotely or to telework;

(iv) actively performed the principal function of his or her job during the Program Period;

(v) except in the case of employees of home health agencies and nursing homes, earns an hourly base wage of \$25.00 or less;

(vi) worked at least 34 hours for a covered employer during the relevant monthly period; and

(vii) is not eligible to receive monetary benefits for the performance of work in a job that exposes them to an elevated risk of being exposed to or contracting COVID-19 under any program authorized or implemented by the federal government.

(B) Notwithstanding subdivision (A)(i) of this subdivision (2), “eligible employee” includes an independent direct support provider who satisfies the requirements of subdivisions (A)(ii)–(vii) of subdivision (2) of this section.

(C) “Eligible employee” does not include:

(i) an independent contractor or self-employed individual; or

(ii) an individual who has received unemployment insurance benefits for any week in the relevant monthly period.

(3) “Grant issuer” means the entity that the Secretary contracts with to process and disburse payments of grant monies to covered employers for payment to eligible employees.

(4) “Independent direct support provider” has the same meaning as in 21 V.S.A. § 1631.

(5) “Monthly period” means the period from March 13, 2020 through April 14, 2020, inclusive, and the period from April 15, 2020 through May 15, 2020, inclusive.

(6) “Program” means the Essential Employees Hazard Grant Program.

(7) “Program Period” means the period from March 13, 2020 through May 15, 2020, inclusive.

(8) "Secretary" means the Secretary of Administration.

Sec. 2. ESSENTIAL EMPLOYEES HAZARD GRANT PROGRAM;
ESTABLISHMENT; CONTRACTS FOR PROGRAM
ADMINISTRATION

(a) There is established the Essential Employees Hazard Grant Program to provide grants to eligible employees who, during the Program Period, perform work in essential jobs that expose them to an elevated risk of being exposed to or contracting COVID-19.

(b)(1) The Program shall be administered by the Secretary of Administration.

(2) The Secretary shall contract with a private entity to serve as the Program's grant issuer as provided pursuant to subsection (c) of this section.

(3) The Secretary may utilize staff and resources from any State agency or department as necessary to implement and administer the Program.

(4) The Secretary may contract with one or more private entities as necessary to implement or administer the Program.

(5) With respect to grants for eligible employees of home health agencies and nursing homes:

(A) the Secretary shall, in consultation with the Secretary of Human Services, the Commissioner of Disabilities, Aging, and Independent Living, and the Commissioner of Vermont Health Access, develop a process for paying grants to those employees as provided pursuant to Sec. 6 of this act; and

(B) the Agency of Human Services, Department of Disabilities, Aging, and Independent Living, and Department of Vermont Health Access shall jointly administer the processing and payment of grants to those employees as provided pursuant to Sec. 6 of this act.

(c) Notwithstanding any provision of law to the contrary, the Secretary may enter into contracts with the grant issuer and any private entities that are necessary to implement or administer the Program without the need to competitively bid such contracts. For the purposes of the Program, the public health risk posed by COVID-19 shall be deemed to be an emergency situation that justifies the execution of sole source contracts pursuant to Bulletin 3.5, the State's Procurement and Contracting Procedures.

(d) The contract with the grant issuer shall, at a minimum, provide that the grant issuer shall:

(1) issue grant payments to eligible employees pursuant to the provisions of this act and pursuant to a time period and procedures established by the Secretary;

(2) comply with all requirements, guidelines, and procedures that the Secretary adopts in relation to the Program; and

(3) comply with all requirements of this act.

(e)(1) The Secretary shall adopt requirements, guidelines, and procedures as necessary to implement and administer the Program.

(2) The Secretary shall not be required to initiate rulemaking pursuant to 3 V.S.A. § 831(c) in relation to any requirement, guideline, or procedure that is adopted or issued in relation to the Program.

Sec. 3. SAFEGUARDING PERSONAL INFORMATION; CONFIDENTIALITY

(a) All personally identifiable information that is collected by the Program, any entity of State government performing a function of the Program, or any entity that the Secretary contracts with to perform a function of the Program shall be kept confidential and shall be exempt from inspection and copying under the Public Records Act.

(b) The Secretary shall ensure that any entity of State government performing a function of the Program, or any entity that the Secretary contracts with to perform a function of the Program:

(1) implements appropriate procedures and safeguards to protect any personally identifiable information that it obtains in relation to the Program;

(2) shall not disclose an individual's Social Security number to another State entity or contractor performing a function of the Program unless that disclosure is necessary for the administration of the Program; and

(3) complies with all applicable requirements of 9 V.S.A. chapter 62.

(c) As used in this section, "personally identifiable information" means an individual's:

(1) name;

(2) address;

(3) date of birth;

(4) place of birth;

(5) mother's maiden name;

(6) unique biometric data generated from measurements or technical analysis of human body characteristics used to identify or authenticate the individual, such as a fingerprint, retina or iris image, or other unique physical representation or digital representation of biometric data;

(7) name or address of a member of the individual's immediate family or household;

(8) Social Security number or other government-issued identification number; or

(9) other information that, either alone or in combination with the information listed in subdivisions (1)–(8) of this subsection, would allow a reasonable person to identify the individual with reasonable certainty.

Sec. 4. GRANTS; PAYMENT; INCOME TAX WITHHOLDING

(a) Grants shall be paid to eligible employees in the following amounts:

(1) For each monthly period during the Program Period in which a covered employer submits documentation showing that an eligible employee actually worked at least 108 hours, the eligible employee shall receive a grant of \$1,000.00.

(2) For each monthly period during the Program Period in which a covered employer submits documentation showing that an eligible employee actually worked at least 34 hours and less than 108 hours, the eligible employee shall receive a grant of \$600.00.

(b)(1) The number of hours actually worked by an eligible employee for each monthly period shall include any hours of employer-provided accrued paid leave or leave provided pursuant to the Emergency Family and Medical Leave Expansion Act or the Emergency Paid Sick Leave Act that are used by the eligible employee because he or she has contracted COVID-19 or is quarantined because of exposure to COVID-19.

(2) The number of hours actually worked by an eligible employee for each monthly period shall not include:

(A) any hours of employer-provided accrued paid leave or leave provided pursuant to the Emergency Family and Medical Leave Expansion Act or the Emergency Paid Sick Leave Act that are used by the eligible employee to care for another individual; and

(B) any hours of remote or telework performed by the eligible employee.

(c) An eligible employee who qualifies for a grant pursuant to subdivisions (2)(A)(i)–(vii) of Sec. 1 of this act shall be permitted to receive not more than two grants per monthly period for eligible work performed at different covered employers. If an eligible employee performed work that qualifies for a grant at more than two covered employers during a particular month, the employee shall receive grants in relation to the two jobs at which the employee worked the greatest number of hours during that month.

(d)(1) Each grant check for an eligible employee shall be sent to the employee’s covered employer who shall give the check to the employee not more than five calendar days after the covered employer receives it.

(2) For the sole purpose of the administration of the Program and provision of Program grants to independent direct support providers, ARIS Solutions, as the fiscal agent for the employers of the independent direct support providers, shall have the authority to distribute grant checks to independent direct support providers after receiving the checks from the grant issuer.

(e) Checks shall be issued by the grant issuer according to a schedule adopted by the Secretary.

(f)(1) The Secretary shall, as soon as practicable, determine whether a sufficient amount of the funds appropriated pursuant to Sec. 9 of this act remains to pay the anticipated grant requests for the second monthly period. If the Secretary determines that the remaining funds are likely to be insufficient to pay the claims for the second monthly period, the Secretary shall, in consultation with the grant issuer, reduce the grant amounts set forth in subsection (a) of this section by an amount necessary to ensure that all anticipated grant requests for the second monthly period can be paid.

(2) The grant issuer shall cease paying claims submitted after a date established by the Secretary by guidelines or procedure or upon the exhaustion of the funds appropriated in Sec. 9 of this act, whichever occurs sooner.

(g)(1) Each eligible employee shall, together with his or her initial grant payment, be provided with written notice that the grant may be subject to income tax and that the eligible employee’s grant is subject to withholding.

(2) All procedures specified by 26 U.S.C. chapter 24 and 32 V.S.A. chapter 151, subchapter 4 pertaining to the withholding of income tax shall be followed in relation to the payment of grants pursuant to this section.

Sec. 5. APPLICATION; REQUIRED INFORMATION

(a)(1) In order to enroll in the Program and make its employees eligible for grants issued under the Program, a covered employer shall submit to the Secretary or the Secretary's designee a notice of enrollment in a form specified by the Secretary.

(2) The Secretary shall require employers to provide information demonstrating that they are a covered employer.

(3) As a condition of enrolling in the Program, each covered employer shall agree:

(A) to make all books and records related to work performed by eligible employees during the Program Period available upon request to the Secretary, the Secretary's designee, or the Attorney General for inspection;

(B) not to require any eligible employee to pay an administrative fee or other charge in relation to the employer requesting or obtaining a grant payment for the employee; and

(C) not to reduce the hourly compensation, including any related bonuses or premiums, of any eligible employee during the Program Period, provided that this subdivision (C) shall not apply to covered employers who receive reimbursement for services through the Agency of Human Services or a department within the Agency at rates that are:

(i) set through a rate setting process;

(ii) established by rule;

(iii) set pursuant to a provision of a grant from the Agency of Human Services or a department within the Agency;

(iv) set pursuant to a contract with the Agency of Human Services or a department within the Agency; or

(v) any combination of subdivisions (i)–(iv) of this subdivision (a)(3)(C).

(b)(1) A covered employer that has enrolled in the Program shall submit a request for grant payments in a form specified by the Secretary for each monthly period during the Program Period according to a schedule established by the Secretary.

(2) The Secretary shall specify the information that must be provided for each eligible employee, including documentation of any information necessary for the grant issuer to withhold income taxes pursuant to subsection (g) of Sec. 4 of this act.

(c) For the sole purpose of the administration of the Program and provision of Program grants to independent direct support providers, ARIS Solutions, as the fiscal agent for the employers of the independent direct support providers, shall have the authority to provide the information required pursuant to subsection (b) of this section to the Secretary or an entity designated by the Secretary. ARIS Solutions shall make all documentation for grants requested on behalf of independent direct support providers during the Program Period available upon request to the Secretary, the Secretary's designee, or the Attorney General for inspection.

(d)(1) Nothing in this section shall be construed to require a covered employer to enroll in the Program.

(2) A covered employer that elects not to enroll in the Program or neglects or fails to submit a request for grant payments for any monthly period in the Program Period shall not be liable to its eligible employees for any amounts that they may have been entitled to receive under the Program if the covered employer had enrolled in the Program or submitted a grant request for that monthly period.

Sec. 6. GRANTS FOR ELIGIBLE HOME HEALTH AND NURSING HOME EMPLOYEES

(a)(1) Notwithstanding Secs. 4 and 5 of this act, eligible employees performing work for a home health agency or nursing home shall receive grants during the Program Period pursuant to a procedure adopted by the Secretary in consultation with the Secretary of Human Services, the Commissioner of Disabilities, Aging, and Independent Living, and the Commissioner of Vermont Health Access.

(2)(A) Eligible employees who work at least 108 hours during a monthly period shall be entitled to a grant of \$1,000.00. Eligible employees who work at least 34 hours and less than 108 hours during a monthly period shall be entitled to a grant of \$600.00.

(B) Notwithstanding subdivision (2)(A)(v) of Sec. 1 of this act, grants shall also be made available pursuant to this section to eligible employees earning more than \$25.00 per hour.

(3) Notwithstanding subdivision (2)(A)(i) of Sec. 1 of this act, as used in this section, "eligible employee" includes an individual who is licensed to provide physical, speech, respiratory, or occupational therapy and:

(A) provides such therapy services at or on behalf of a nursing home or home health agency;

(B) engages in direct patient contact during the provision of such services; and

(C) is employed by a separate entity that the home health agency or nursing home has contracted with for the provision of those services.

(b) The Agency of Human Services and Departments of Disabilities, Aging, and Independent Living and of Vermont Health Access shall jointly administer the payment and processing of grants pursuant to this section with the Secretary.

(c)(1) The Secretary shall, in consultation with the Secretary of Human Services, Commissioner of Disabilities, Aging, and Independent Living, and Commissioner of Vermont Health Access, develop a process for identifying eligible employees, determining grant amounts, and paying grants to eligible employees through participating home health agencies and nursing homes.

(2) The Secretary shall, as soon as practicable and in consultation with the Secretary of Human Services, Commissioner of Disabilities, Aging, and Independent Living, and Commissioner of Vermont Health Access, determine whether a sufficient amount of the funds appropriated pursuant to Sec. 9 of this act remains to pay the anticipated grant requests for the second monthly period. If the Secretary determines that the remaining funds are likely to be insufficient to pay the claims for the second monthly period, the Secretary shall, in consultation with the Secretary of Human Services, Commissioner of Disabilities, Aging, and Independent Living, and Commissioner of Vermont Health Access, reduce the grant amounts set forth in subsection (a) of this section by an amount necessary to ensure that all anticipated grant requests for the second monthly period can be paid.

(d)(1) Each eligible employee who receives a grant payment pursuant to this section shall, together with his or her initial grant payment, be provided with written notice that the grant may be subject to income tax and that the eligible employee's grant is subject to withholding.

(2) All procedures specified by 26 U.S.C. chapter 24 and 32 V.S.A. chapter 151, subchapter 4 pertaining to the withholding of income tax shall be followed in relation to the payment of grants pursuant to this section.

Sec. 7. REPORTS; AUDIT

(a) The Secretary shall require the grant issuer and any private entity that is performing a function of the Program to provide the Secretary with monthly reports providing information on Program performance, including, as applicable, the number of claims received and processed, the number of employers enrolled, and the amount of grant funds paid.

(b) On or before October 1, 2020, the Secretary shall submit a written report to the Joint Fiscal Committee with the following information:

(1) the total number of covered employers that participated in the Program;

(2) the total number of eligible employees who received grants through the Program;

(3) the aggregate number of grants and the aggregate dollar amount of the grants issued for each monthly period during the Program Period;

(4) the aggregate dollar amount of the grants issued for the entire Program Period; and

(5) any other information regarding the Program that the Secretary determines is pertinent.

(c) The grant issuer and any other private entity with whom that Secretary contracts for the performance of a function related to the Program shall:

(1) keep its books and records related to the Program available for audit as required by the Secretary during the period of the contract and for three years thereafter or any longer period that is otherwise required by law;

(2) make all books and records related to the Program available to the Secretary, the Attorney General, and the Auditor of Accounts upon request; and

(3) make its books and records available for review or audit upon request by any State or federal authority with jurisdiction, or an entity appointed by such a State or federal authority.

Sec. 8. FRAUD; ENFORCEMENT

(a) A person shall not intentionally make a false statement or representation to obtain or increase any grant for an eligible employee under this act.

(b) The Attorney General may enforce the provisions of this section and Secs. 4–6 of this act by restraining prohibited acts, seeking civil penalties, obtaining assurances of discontinuance, and conducting civil investigations in accordance with the procedures established in 9 V.S.A. §§ 2458–2461 as though a violation of this section were an unfair act in commerce. Any person complained against shall have the same rights and remedies as specified in those sections. The Superior Courts are authorized to impose the same civil penalties and investigation costs and to order other relief to the State of Vermont for violations of this section as they are authorized to impose or order

under the provisions of 9 V.S.A. §§ 2458 and 2461 in an unfair act in commerce. In addition, the Superior Courts may order a person who violates the provisions of this section to pay restitution to the State in an amount equal to the amount of any benefit or other payment that was obtained by means of a false statement or representation.

Sec. 9. APPROPRIATION; INTENT; FEDERAL FUNDS

(a) It is the intent of the General Assembly that the State shall only expend funds appropriated in this section to support the Essential Employees Hazard Grant Program during the COVID-19 emergency in the absence of a specific federal program to support eligible employees or covered employers as defined in this act.

(b) The amount of \$60,000,000.00 is appropriated in Fiscal Year 2020 from the Coronavirus Relief Fund to the Agency of Administration for use in fiscal years 2020 and 2021 for the administration of and payment of grants pursuant to the Essential Employees Hazard Grant Program. The amount needed to support the payment of grants to eligible employees working for a nursing home or home health agency shall be transferred to the Agency of Human Services.

(c)(1) For the amount appropriated in subsection (b) of this section, the Commissioner of Finance and Management shall only release the amount necessary to pay each of the two monthly periods during the Program Period to the Agency of Administration and the Agency of Human Services upon notification from the State Treasurer that prior to the issuance of each installment there is no specific federal program to support eligible employees or covered employers as defined in this act.

(2) If a federal program supporting eligible employees or covered employers as defined in this act is enacted, the Commissioner of Finance and Management shall only release the amount from the amount appropriated in subsection (b) of this section that is needed to issue grants made under the Program prior to the enactment of the federal program.

(3) To the extent permissible, the State shall apply any federal funding granted directly to the State through a federal program to any grants already provided under the Program.

(d) Any unexpended funds remaining after the Program Period ends shall revert to the Coronavirus Relief Fund for reallocation.

(e) As used in this section:

(1) "Federal program" includes:

(A) federal funds that have been granted or are likely to be granted to the State or have been granted or are likely to be granted directly to eligible employees or covered employers as defined in this act, in recognition of the increased risk of being exposed to or contracting COVID-19; or

(B) any federal tax incentives or credits enacted to support eligible employees or covered employers as defined in this act, in recognition of the increased risk of being exposed to or contracting COVID-19.

(2) “Federal program” does not include any funds from the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116–136,

Sec. 10. AGENCY OF TRANSPORTATION; TRANSIT AGENCIES;
BENEFITS TO ESSENTIAL WORKERS

The General Assembly encourages the Agency of Transportation, in consultation with transit agencies that are eligible to receive grant funds pursuant to 49 U.S.C. § 5307 or 5311, or both, to develop a plan to utilize funding from the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116–136, or any other federal act providing additional funding related to COVID-19, to the extent permitted by law, to provide increased compensation, whether in the form of an increased hourly wage, a bonus, or some other monetary benefit, to drivers and other employees who provide in-person services to members of the general public during the Program Period or a longer period permitted by federal law in recognition of the increased risk of being exposed to or contracting COVID-19.

Sec. 11. MUNICIPALITIES; HAZARD PAY FOR ESSENTIAL WORKERS

In the event that the State provides grant funding to municipalities for COVID-19 related expenses, the General Assembly encourages any municipalities that receive grants to develop a plan to utilize a portion of the grant funding provided by the State, to the extent permitted by law, to provide increased compensation, hazard pay, a bonus, or some other monetary benefit, to municipal employees, such as firefighters, law enforcement officers, and ambulance workers, whose jobs placed them at an increased risk of being exposed to or contracting COVID-19 during the Program Period.

Sec. 12. COVERED EMPLOYERS; HAZARD PAY FOR ESSENTIAL
WORKERS NOT COVERED BY PROGRAM

The General Assembly encourages covered employers to develop a plan to utilize their own resources or any available grant funding, to the extent possible, to provide increased compensation, hazard pay, a bonus, or some other monetary benefit, to employees whose jobs placed them at an increased risk of being exposed to or contracting COVID-19 during the Program Period

but who are not eligible to receive grants through the Program because they earn an hourly base wage in excess of \$25.00 per hour.

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.