

# Senate Calendar

WEDNESDAY, JUNE 24, 2020

SENATE CONVENES AT: 12:00 P.M.

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**ACTION CALENDAR  
UNFINISHED BUSINESS OF JANUARY 7, 2020  
GOVERNOR'S VETOES**

**S. 37.**

An act relating to medical monitoring.

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

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

**S. 169.**

An act relating to firearms procedures.

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

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

**UNFINISHED BUSINESS OF 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 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.

## 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. 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. 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. 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 ~~of~~ of recognition without a referendum, in which event a secret ballot referendum shall be held in the district for the purpose of choosing an exclusive representative ~~according to the guidelines for referendum contained in this legislation as provided pursuant to the provisions of this section.~~

(2)(A)(i) An organization seeking to represent the teachers or administrators employed by a school board may petition the school board and the Vermont Labor Relations Board for a list of the teachers or administrators in the proposed bargaining unit.

(ii) An organization or group of teachers or administrators, or any person purporting to act on their behalf, that is seeking to demonstrate that the teachers' or administrators' organization that is currently the exclusive representative of the teachers or administrators is no longer supported by a majority of the teachers or administrators employed by that school board shall

not be entitled to obtain a list of the employees in the proposed bargaining unit pursuant to this subdivision (a)(2).

(B) Within two business days after receiving the petition, the school board shall file with the Vermont Labor Relations Board and the organization a list of the names and job titles of the teachers or administrators in the proposed bargaining unit. To the extent possible, the list of employees shall be in alphabetical order by last name and provided in electronic format.

\* \* \*

(c)(1)(A) A secret ballot referendum shall be held ~~any time that~~ not more than 21 days after 20 percent of the teachers or administrators employed by the school board present a petition requesting a referendum on the matter of representation, except during a period of prior recognition, as ~~hereinbefore~~ provided pursuant to subsection (b) of this section.

(B) The parties may mutually agree to extend the time to hold the election set forth in subdivision (A) of this subdivision (1).

(C) Any organization interested in representing teachers or administrators in the school district shall have the right to appear on the ballot by submitting a petition supported by ten percent or more of the teachers or administrators in the school district.

(2)(A) Unless the school board and the organization agree to a longer period, within two business days after the petition is presented, the school board shall file with the organization that will be named on the ballot a list of the teachers or administrators in the bargaining unit.

(B) The list shall include, as appropriate, each teacher's or administrator's name, work location, job classification, and contact information. As used in this subdivision (2), "contact information" includes a teacher's or administrator's home address, personal e-mail address, and home and personal cellular telephone numbers.

(C) To the extent possible, the list of teachers or administrators shall be in alphabetical order by last name and provided in electronic format.

(D) The list shall be kept confidential by the school board and the organization and shall be exempt from copying and inspection under the Public Records Act.

(E) Failure to file the list within the time required pursuant to subdivision (A) of this subdivision (2) shall be an unfair labor practice and grounds for the Vermont Labor Relations Board to set aside the results of the referendum if an unfair labor practice charge is filed not more than 10 business days after the referendum.

\* \* \*

Sec. 3. 21 V.S.A. § 1724 is amended to read:

§ 1724. CERTIFICATION PROCEDURE

(a)(1) A petition may be filed with the Board, in accordance with regulations prescribed rules adopted by the Board:

~~(1)~~(A) By an employee or group of employees, or any individual or employee organization purporting to act in their behalf, alleging that not less than 30 percent of the employees, wish to form a bargaining unit and be represented for collective bargaining, or assert that the individual or employee organization currently certified as bargaining agent is no longer supported by at least 51 percent of the employees in the bargaining unit, or that not less than 51 percent of the employees now included in an approved bargaining unit wish to form a separate bargaining unit under Board criteria for purposes of collective bargaining.

~~(2)~~(B) By the employer alleging that the presently certified bargaining unit is no longer appropriate under Board criteria.

~~(2)~~(A)(i) An employee or group of employees, or any individual or employee organization purporting to act in their behalf, that is seeking to determine interest in the formation of a bargaining unit or representation for collective bargaining may petition the employer and the Board for a list of the employees in the proposed bargaining unit.

(ii) An employee or group of employees, or any person purporting to act on their behalf, that is seeking to demonstrate that the individual or employee organization currently certified as bargaining agent is no longer supported by at least 51 percent of the employees in the bargaining unit shall not be entitled to obtain a list of the employees in the proposed bargaining unit pursuant to this subdivision (a)(2).

(B) Within two business days after receiving the petition, the employer shall file with the Board and the employee or group of employees, or the individual or employee organization purporting to act in their behalf, a list of the names and job titles of the employees in the proposed bargaining unit. To the extent possible, the list of employees shall be in alphabetical order by last name and provided in electronic format.

(b)(1) The Board, a Board member thereof, or a person or persons designated by the Board shall investigate the petition, and do one of the following:

(A) Determine that a sufficient showing of interest has been made by the petition.

~~(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. 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)

**UNFINISHED BUSINESS OF JUNE 17, 2020**

**House Proposal of Amendment**

**S. 301**

An act relating to miscellaneous telecommunications changes.

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

Sec. 1. 30 V.S.A. § 248a is amended to read:

§ 248a. CERTIFICATE OF PUBLIC GOOD FOR COMMUNICATIONS FACILITIES

\* \* \*

(i) Sunset of Commission authority. Effective on July 1, ~~2020~~ 2023, no new applications for certificates of public good under this section may be considered by the Commission.

\* \* \*

(q)(1) Emergency waiver. Notwithstanding any other provisions of this section, when the Governor has declared a state of emergency pursuant to 20 V.S.A. § 9 and for 180 days after the declared state of emergency ends, the Commission may waive, for a specified and limited time, the prohibitions contained in this section upon site preparation for or construction of a temporary telecommunications facility necessary for maintaining or improving access to telecommunications services. Waivers issued under this subsection shall be valid for a period not to exceed the duration of the declared emergency plus 180 days.

(2) A person seeking a waiver under this subsection shall file a petition with the Commission and shall provide copies to the Department of Public Service and the Agency of Natural Resources. The Commission shall require that additional notice be provided to those listed in subsection (e) of this section and any affected communications union districts. Upon receipt of the petition, the Commission shall conduct an expedited preliminary hearing.

(3) An order granting a waiver may include terms, conditions, and safeguards to mitigate significant adverse impacts, including the posting of a bond or other security, as the Commission deems proper, based on the scope and duration of the requested waiver.

(4) A waiver shall be granted only when the Commission finds that:

(A) good cause exists due to an emergency situation;

(B) the waiver is necessary to maintain or provide access to wireless telecommunications services;

(C) procedures will be followed to minimize significant adverse impacts under the criteria specified in subdivision (c)(1) of this section; and

(D) taking into account any terms, conditions, and safeguards that the Commission may require, the waiver will promote the general good of the State.

(5) Upon the expiration of a waiver, if a certificate of public good has not been issued under this section, the Commission shall require the removal, relocation, or alteration of the facilities subject to the waiver, as it finds will best promote the general good of the State.

## 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. EXTENSION OF SECTION 248a NOTICE PERIOD DURING COVID-19 STATE OF EMERGENCY

Notwithstanding any contrary provision of law, during the declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, when an applicant provides notice that it will be filing an application for a certificate of public good under 30 V.S.A. § 248a, a municipal legislative body or a planning commission may request, and the Public Utility Commission shall grant, a 30 day extension to the original notice period for a total 90 day notice period. This extended notice period shall be available on any notice of application for a certificate of public good pursuant to 30 V.S.A. § 248a filed during the declared state of emergency under 20 V.S.A. chapter 1 due to COVID-19, except those for de minimis modifications.

Sec. 4. 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. The rule shall incorporate threshold criteria for outage reporting that reflect the sparsely populated rural nature of Vermont. 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. 5. EFFECTIVE DATE

This act shall take effect on passage.

**Proposal of amendment to House proposal of amendment to S. 301 to be offered by Senator Brock**

Senator Brock moves that the Senate concur in the House proposal of amendment with a proposal of amendment as follows:

By striking out Sec. 4 in its entirety and by inserting in lieu thereof a new Sec. 4 to read:

Sec. 4. 2019 Acts and Resolves No. 79, Sec. 25 is amended to read:

Sec. 25. OUTAGES AFFECTING E-911 SERVICE; REPORTING;  
RULE; E-911 BOARD

(a) The Contingent upon the event described in subsection (b) of this section, the E-911 Board shall adopt a rule establishing protocols for the E-911 Board to obtain information about or be apprised of, in a timely manner, system outages applicable to wireless service providers, to 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. 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.~~

(b) When one or more states with a combined population of 20,000,000 residents adopts a rule or enacts a law that applies a lower reporting threshold than is required under 47 C.F.R. Part 4, § 4.9(e)(1)(ii) as it pertains to wireless service providers, the E-911 Board shall initiate the rulemaking required under subsection (a) of this section and shall incorporate the lowest above-referenced reporting threshold applicable to wireless service providers into its proposed rule, which shall be filed with the Secretary of State pursuant to 3 V.S.A. § 838 not more than 60 days after the rulemaking has commenced. Subsequent reporting thresholds adopted or enacted outside Vermont shall not trigger a new rulemaking under this section.

## **UNFINISHED BUSINESS OF JUNE 23, 2020**

### **Third Reading**

#### **S. 124.**

An act relating to miscellaneous law enforcement amendments.

## **NEW BUSINESS**

### **Third Reading**

#### **S. 119.**

An act relating to law enforcement training on appropriate use of force, de-escalation tactics, and cross-cultural awareness.

#### **S. 219.**

An act relating to requiring law enforcement to comply with race data reporting requirements in order to receive State grant funding.

### **Amendment to S. 219 to be offered by Senator Ingram before Third Reading**

Senator Ingram moves to amend the bill by striking out Sec. 3, 20 V.S.A. § 2366, in its entirety and inserting in lieu thereof the following:

Sec. 3. 20 V.S.A. § 2366 is amended to read:

§ 2366. LAW ENFORCEMENT AGENCIES; FAIR AND IMPARTIAL  
POLICING POLICY; RACE DATA COLLECTION

\* \* \*

(e)(1) On or before September 1, ~~2014~~ 2020, every State, county, and municipal law enforcement agency shall collect roadside stop data consisting of the following:

(A) the age, gender, and race of the driver, and each passenger, if any;

(B) the reason for the stop;

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

(D) the evidence or contraband located, if any; and

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

(i) a written warning was issued;

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

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

(iv) no subsequent action was taken; and

(v) whether force was used during the stop, and, if so:

(I) the justification made by the officer for the use of force;

(II) the type of force used;

(III) the type of resistance offered;

(IV) the impairment in the physical or psychological condition of the subject, if any; and

(V) the injury sustained or death resulting, if any;

(F) the year of the vehicle and the state in which the vehicle is registered;

(G) the duration of the stop; and

(H) the law enforcement officer's total years of service in law enforcement.

(2) Law enforcement agencies shall work with the Criminal Justice Training Council, the Executive Director of Racial Equity, and a vendor chosen by the Council the Office of the Attorney General with the goals of



collecting uniform data, adopting uniform storage methods and periods, and ensuring that data can be analyzed. Roadside stop data, as well as reports and analysis of roadside stop data, shall be public.

(3) On or before September 1, 2016 and annually thereafter, law enforcement agencies shall provide the data collected under this subsection to ~~the vendor chosen by the Criminal Justice Training Council under the Executive Director of Racial Equity and the Office of the Attorney General pursuant to subdivision (2) of this subsection or, in the event the vendor is unable to continue receiving data under this section, to the Council.~~ Law enforcement agencies shall provide the data collected under this subsection in an electronic format specified by the ~~receiving entity~~ Office of the Attorney General.

(4) The data provided pursuant to subdivision (3) of this subsection shall be posted electronically in a manner that is analyzable and accessible to the public on the ~~receiving agency's~~ Office of the Attorney General's website.

(f) Nothing in this section is intended to prohibit or impede any public agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and 1644. To the extent any State or local law enforcement policy or practice conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, that policy or practice is, to the extent of the conflict, abolished.

#### **H. 955.**

An act relating to capital construction and State bonding budget adjustment.

#### **Proposal of amendment to H. 955 to be offered by Senator Benning before Third Reading**

Senator Benning moves that the Senate propose to the House to amend the bill in Sec. 13, amending 2019 Acts and Resolves No. 42, Sec. 20, in subdivision (c)(1), by striking out the following: "Of the amount appropriated" and inserting in lieu thereof the following: Notwithstanding 18 V.S.A. § 5212b(b), of the amount appropriated

#### **Second Reading**

#### **Favorable**

#### **H. 957.**

An act relating to extending the deadline to test for lead in the drinking water of school buildings and child care facilities.

#### **Reported favorably by Senator Parent for the Committee on Education.**

(Committee vote: 6-0-0)

(For House amendments, see House Journal of May 22, 2020, page 1041.)

## **Favorable with Proposal of Amendment**

### **H. 954.**

An act relating to miscellaneous tax provisions.

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

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

First: By striking out Sec. 4, property tax collection, in its entirety and inserting in lieu thereof:

Sec. 4. [Deleted.]

Second: By striking out Sec. 8, 32 V.S.A. § 5870, in its entirety and inserting in lieu thereof:

Sec. 8. [Deleted.]

Third: By striking out Sec. 12, 32 V.S.A. § 9248, in its entirety and inserting in lieu thereof a new Sec. 12 to read as follows:

Sec. 12. 32 V.S.A. § 9248 is amended to read:

§ 9248. INFORMATIONAL REPORTING

The Department of Taxes shall ~~shall~~ may collect information on operators from persons providing an Internet platform for the short-term rental of property for occupancy in this State. The information collected shall include any information the Commissioner shall require, and the name, address, and terms of the rental transactions of persons acting as operators through the Internet platform. The failure to provide information as required under this section shall subject the person operating the Internet platform to a fine of \$5.00 for each instance of failure. The Commissioner is authorized to adopt rules and procedures to implement this section.

Fourth: By striking out Sec. 19, 32 V.S.A. § 5825a(b), in its entirety and inserting in lieu thereof the following:

Sec. 19. 32 V.S.A. § 5825a is amended to read:

§ 5825a. CREDIT FOR VERMONT HIGHER EDUCATION  
INVESTMENT PLAN CONTRIBUTIONS

(a) A taxpayer of this State, including each spouse filing a joint return, shall be eligible for a nonrefundable credit against the tax imposed under section 5822 of this title of 10 percent of the first \$2,500.00 per beneficiary, contributed by the taxpayer during the taxable year to a Vermont ~~higher~~

~~education investment plan~~ Higher Education Investment Plan account under 16 V.S.A. chapter 87, subchapter 7, provided the account is provided directly by the Vermont Student Assistance Corporation to the participant.

(b) A taxpayer who has received a credit under subsection (a) of this section shall repay to the Commissioner 10 percent of any distribution from a higher education investment plan account, ~~which distribution is not used exclusively for costs of attendance at an approved postsecondary education institution as defined in 16 V.S.A. § 2822(6),~~ up to a maximum of the total credits received by the taxpayer under subsection (a) of this section minus any amount of repayment of such credits in prior tax years except when the distribution:

(1) is used exclusively for costs of attendance at an approved postsecondary education institution as defined in 16 V.S.A. § 2822(6);

(2) qualifies as an expense associated with a registered apprenticeship program pursuant to 26 U.S.C. § 529(c)(8); or

(3) is made after the death of the beneficiary or after the beneficiary becomes disabled pursuant to subdivisions (q)(2)(C) and (m)(7) of 26 U.S.C. § 72.

(c) Repayments under ~~this subsection (b) of this section~~ shall be subject to assessment, notice, penalty and interest, collection, and other administration in the same manner as an income tax under this chapter.

Sec. 19a. 16 V.S.A. chapter 87, subchapter 7 is amended to read:

\* \* \*

## § 2876. DEFINITIONS

As used in this subchapter, except where the context clearly requires another interpretation:

(1) “Beneficiary” means any individual designated by a participation agreement to benefit from payments for qualified postsecondary education costs ~~at an institution of postsecondary education.~~

(2) “Benefits” means the payment of qualified postsecondary education costs on behalf of a beneficiary ~~by the Corporation’s Investment Plan during the beneficiary’s attendance at an institution of postsecondary education from a participant’s investment plan account.~~

(3) “Corporation” means Vermont Student Assistance Corporation.

(4) “Internal Revenue Code” means the federal Internal Revenue Code of 1986, as amended, together with the regulations promulgated ~~thereunder~~ pursuant to that Code.

(5) ~~“Qualified postsecondary education costs” means the qualified costs of tuition and fees and other expenses for attendance at an approved postsecondary education institution~~ costs of tuition and fees for attendance at an approved postsecondary education institution, and other qualified higher education expenses as provided under 26 U.S.C. § 529.

(6) “Approved postsecondary education institution” means a postsecondary education institution as defined in section 2822 of this title.

(7) “Vermont Higher Education Investment Plan” or “Investment Plan” means ~~the program~~ one or more plans created pursuant to this subchapter.

(8) “Participant” means a person who has entered into a participation agreement pursuant to this subchapter intended for the ~~advance~~ payment of qualified postsecondary education costs on behalf of a beneficiary.

(9) “Participation agreement” means an agreement between a participant and the Corporation, pursuant to and conforming with the requirements of this subchapter.

§ 2877. VERMONT HIGHER EDUCATION INVESTMENT PLAN  
CREATED

(a) There is created a program of the State to be known as the Vermont Higher Education Investment Plan and a trust for that purpose to be administered by the Vermont Student Assistance Corporation as an instrumentality of the State. The program may consist of one or more different investment plans, including one or more plans that may be offered to a participant only with the assistance of a qualified financial advisor.

(b) In order to establish and administer the Investment Plan, the Corporation, in addition to its other powers and authority, shall have the power and authority to:

\* \* \*

(2) Enter into agreements with any ~~institution~~ of approved postsecondary education institution, the State, or any federal or other agency or entity as required for the operation of ~~the~~ an Investment Plan pursuant to this subchapter.

(3) Accept any grants, gifts, legislative appropriations, and other ~~moneys monies~~ from the State, any unit of federal, State, or local government, or any other person, firm, partnership, or corporation for ~~deposit~~ contribution

to the account of the Investment Plan, or for the operation or other related purposes of the Corporation.

(4) Invest the funds received from participants in appropriate investment vehicles approved and held in trust for participants by the Corporation as selected by the participants, including education loans made by the Corporation.

(5) Enter into participation agreements with participants.

(6) Develop and use two or more types of participation agreements to provide a range of investment ~~structures~~ options for participants.

(7) Make payments ~~to institutions of postsecondary education on behalf of beneficiaries~~ as directed by the participants pursuant to participation agreements.

(8) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in this subchapter and the rules ~~and regulations,~~ policies, and procedures adopted by the Corporation.

(9) Make provision for the payment of costs of administration and operation of ~~the~~ an Investment Plan subject to the limitations on charges on participation agreements established in subdivision 2878(5) of this title.

(10) Adopt rules ~~and regulations,~~ policies, and procedures to implement this subchapter and take all necessary action to ensure an Investment Plan is in conformance with the Internal Revenue Code and other applicable law.

\* \* \*

#### § 2878. PARTICIPATION AGREEMENTS FOR INVESTMENT PLAN

The Corporation shall have the authority to enter into Investment Plan participation agreements with participants ~~on behalf of beneficiaries~~ pursuant to the provisions of this subchapter, including the following terms and agreements:

(1) A participation agreement shall stipulate the terms and conditions of the Investment Plan ~~in~~ to which the participant makes ~~deposits~~ contributions.

(2) A participation agreement shall clearly specify the method for calculating the return on the ~~deposit made by the participant, which may be a variable or adjustable rate of return~~ various investment options available and shall reference the relevant expenses and other pertinent information about the account.

\* \* \*

(4) A participation agreement shall clearly and prominently disclose to participants the risks associated with ~~depositing monies with the Corporation~~ the various investment options available under the applicable Investment Plan.

(5) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public. A participation agreement shall clearly and prominently disclose to participants that the Corporation, the State, and any other governmental entity are not liable for, nor guarantee the return of or on the participant's contributions to an Investment Plan. A participation agreement shall also clearly and prominently disclose to participants the existence of any load charge or similar charge assessed against the accounts of the participants for administration, operation, or services. No fee or similar charge may be imposed with regard to an investment managed by the Corporation. Any fee, load, or similar charge with regard to any investment not managed by the Corporation shall be no greater than the cost determined by the Corporation to be required to administer the investment. The cost of originating and servicing any education loans made or acquired pursuant to participation agreements shall not be considered as load charges or similar charges.

\* \* \*

#### § 2878a. PARTICIPATION AGREEMENTS FOR INVESTMENT PLAN; INDIVIDUAL DEVELOPMENT INVESTMENT ACCOUNTS

The Corporation may participate in the Individual Development Investment Program established under 33 V.S.A. § 1123, in accordance with the rules of the Agency of Human Services adopted thereunder, in connection with an individual or family who, at the time of ~~depositing~~ contributing funds into an account created pursuant to a Vermont Higher Education Investment Plan, receives public assistance or is otherwise an eligible saver under 33 V.S.A. § 1123.

#### § 2879. INVESTMENT AND PAYMENTS

All money paid by a participant in connection with a participation agreement shall be ~~deposited~~ credited to the participant's account as received, held by the Corporation in trust for the benefit of the participant, and shall be promptly invested by the Corporation as selected by the participant from the investment options available under the participation agreement. ~~Deposits and earnings thereon accumulated on behalf of participants in the Investment Plan~~ Contributions and earnings accumulated in a participant's Investment Plan account may be used, as provided in the participation agreement, ~~for payments to any institution of postsecondary education~~ including for payments of qualified postsecondary education costs.

The trust shall continue in existence as long as it holds any funds belonging to a participant.

\* \* \*

§ 2879c. TAX EXEMPTION

\* \* \*

(b) Contributions to an account held under ~~the~~ a Vermont Higher Education Investment Plan that is provided directly by the Corporation to a participant shall be eligible for a credit against Vermont income tax as provided under 32 V.S.A. § 5825a.

§ 2879D. PROPERTY RIGHTS TO ASSETS IN THE PLAN

The assets of the Vermont Higher Education Investment Plan shall at all times be held in trust for the benefit of the participant, shall not be commingled with any other funds of the Corporation or the State, shall be preserved, invested, and expended solely and only for the purposes set forth in this chapter and in accordance with the participation agreements, and no property rights therein shall exist in favor of the Corporation or the State. Amounts held in, or withdrawn from, a participant's Investment Plan account under a participation agreement shall not be subject to liens, attachment, garnishment, levy, seizure, claim by creditors of the contributors, participants, or any beneficiary, or subject to any involuntary sale, transfer, or assignment by any execution or any other legal or equitable operation of law, including bankruptcy or insolvency laws.

\* \* \*

Fifth: By inserting a Sec. 25a to read as follows:

Sec. 25a. 32 V.S.A. § 5933(a) is amended to read:

(a) A claimant agency may submit any debt of ~~\$50.00~~ \$45.00 or more to the Department for collection under the procedure established by this chapter. This setoff debt collection remedy is in addition to and not in substitution for any other remedy available by law.

Sixth: By striking out Sec. 27, effective dates, and its reader assistance heading in their entirety and inserting in lieu thereof Secs. 27–29 and their reader assistance headings to read as follows:

\* \* \* Land Use Change Tax Lien Subordination \* \* \*

Sec. 27. 2019 Acts and Resolves No. 20, Sec. 109 is amended to read:

Sec. 109. REPEALS

(a) 32 V.S.A. § ~~3757(f)~~ 3777 (land use change tax lien subordination) is repealed on July 1, 2020.

\* \* \*

\* \* \* Interest Rate; Overpayments and Underpayments \* \* \*

Sec. 28. 32 V.S.A. § 3108(a) is amended to read:

(a) Not later than December 15 of each year, the Commissioner shall establish an annual rate of interest applicable to unpaid tax liabilities and tax overpayments that shall be equal to the average prime rate charged by banks during the immediately preceding 12 months commencing on October 1 of the prior year, rounded upwards to the nearest quarter percent. ~~Not later than December 15 of each year, the Commissioner shall establish an annual rate of interest applicable to unpaid tax liabilities, which in each instance shall be equal to the annual rate established for tax overpayments plus 200 basis points.~~ The ~~rates~~ rate established hereunder shall be effective on January 1 of the immediately following year. As used in this section, the term “prime rate charged by banks” shall mean the average predominate prime rate quoted by commercial banks to large businesses as determined by the Board of Governors of the Federal Reserve Board.

\* \* \* Effective Dates \* \* \*

Sec. 29. EFFECTIVE DATES

This act shall take effect on passage except:

(1) Notwithstanding 1 V.S.A. § 214, Sec. 8, 32 V.S.A. § 5870 (use tax reporting), shall take effect retroactively on January 1, 2020 and apply to taxable years beginning on and after January 1, 2020.

(2) Sec. 11 (universal service charge) shall take effect on July 1, 2021.

(3) Notwithstanding 1 V.S.A. § 214, Secs. 13–14 (annual link to federal statutes) shall take effect retroactively on January 1, 2020 and apply to taxable years beginning on and after January 1, 2019.

(4) Notwithstanding 1 V.S.A. § 214, Sec. 16 (TY 2016 refunds) shall take effect retroactively on April 15, 2020.

(Committee vote: 6-1-0)

(No House amendments.)



**Amendment to the recommendation of amendment of the Committee on Finance to H. 954 to be offered by Senator Cummings**

Senator Cummings moves to amend the recommendation of amendment of the Committee on Finance by striking out the second instance of amendment to Sec. 8, 32 V.S.A. § 5870, in its entirety and by renumbering the remaining instances of amendment to be numerically correct.

**H. 959.**

An act relating to education property tax.

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

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

In Sec. 3, interfund loans; borrowing; State Treasurer, in subsection (a), after “appropriation of sufficient revenue to” by striking out the word “support” and inserting in lieu thereof the word repay

(Committee vote: 6-0-1)

(For House amendments, see House Journal for May 29, 2020, page 1103.)

**Reported favorably by Senator McCormack for the Committee on Appropriations.**

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Finance.

(Committee vote: 7-0-0)

**NOTICE CALENDAR**

**Second Reading**

**Favorable**

**H. 943.**

An act relating to approval of amendments to the charter of the City of St. Albans.

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

(Committee vote: 5-0-0)

(No House amendments)

**H. 946.**

An act relating to approval of the adoption of the charter of the Town of Elmore.

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

(Committee vote: 5-0-0)

(No House amendments)

**Favorable with Proposal of Amendment**

**H. 688.**

An act relating to addressing climate change.

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

The Committee recommends that the Senate propose to the House to amend the bill in Sec. 4 as follows:

First: In 10 V.S.A. § 591(a)(9), in subdivision (F) by striking out the word “and”; in subdivision (G) by adding the word and after “science;”; and by adding a new subdivision (H) to read as follows: (H) one member to represent Vermont manufacturers.

Second: In 10 V.S.A. § 591(f), in the last sentence, after the words “The Council”, by inserting the words shall meet at the call of the Chair or a majority of the members of the Council, and the Council

Third: In 10 V.S.A. § 590, by striking out “(5)” and inserting in lieu thereof (4)

Fourth: In 10 V.S.A. § 593(k), by striking out the word “promulgate” and inserting in lieu thereof the word adopt

(Committee vote: 3-2-0)

(For House amendments, see House Journal for February 20, 2020, pages 317-335.)

**Reported favorably with recommendation of proposal of amendment by Senator Nitka for the Committee on Appropriations.**

The Committee recommends that the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources and Energy with the following amendment thereto:

By striking out Secs. 9, appropriation, and 10, positions, and their reader assistance heading in their entireties and by renumbering the remaining section to be numerically correct.

(Committee vote: 6-1-0)

#### H. 942.

An act relating to the Transportation Program and miscellaneous changes to laws related to transportation.

#### **Reported favorably with recommendation of proposal of amendment by Senator Ashe for the Committee on Transportation.**

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

\* \* \* Transportation Program Adopted as Amended;  
Intent; Reports; Definitions \* \* \*

#### Sec. 1. TRANSPORTATION PROGRAM ADOPTED; INTENT; REPORTS; DEFINITIONS

(a) Transportation program adopted. The Agency of Transportation's proposed fiscal year 2021 Transportation Program appended to the Agency of Transportation's proposed fiscal year 2021 budget, as amended by this act, is adopted to the extent federal, State, and local funds are available.

#### (b) Intent.

(1) It is the intent of the General Assembly that the Agency's top priority should be the transportation program adopted under subsection (a) of this section, including preserving all funding to municipalities.

(2) In response to the unprecedented challenges posed by the COVID-19 pandemic, the General Assembly acknowledges that continued funding of infrastructure will help boost our local economy and support the health and welfare of Vermonters. Accordingly, it is the intent of the General Assembly that the projects funded in this act, including under Secs. 2 and 3 of this act, will serve to support and help drive growth in Vermont's economy during this uncertain time.

(3) In light of the long-term and ongoing climate change emergency, it is the intent of the General Assembly to continue to invest in and prioritize measures that will directly contribute to the reduction of greenhouse gas emissions consistent with the State's 2016 Comprehensive Energy Plan.

#### (c) Reports.

(1) The Agency shall, on or before September 1, 2020, file a written report with the Joint Transportation Oversight Committee and the House and Senate Committees on Appropriations and on Transportation with the following information:

(A) an update on enacted and anticipated federal COVID-19 legislation;

(B) an update on projects in the transportation program adopted under subsection (a) of this section that are not anticipated to proceed as planned in fiscal year 2021 and the reasons why;

(C) an update on projects not in the transportation program adopted under subsection (a) of this section that will proceed in fiscal year 2021 and the source of funding;

(D) the status of and funding remaining for the programs established pursuant to 2019 Acts and Resolves No. 59, Sec. 34;

(E) the balance of funding available for public transit under federal COVID-19 legislation; and

(F) any expected reduction in funding available for municipalities.

(2) The Agency shall, on or before February 15, 2021, file a written report with the House and Senate Committees on Appropriations and on Transportation with the following information:

(A) an update on enacted and anticipated federal COVID-19 legislation;

(B) an update on projects in the transportation program adopted under subsection (a) of this section that are not anticipated to proceed as planned in fiscal year 2021 and the reasons why;

(C) an update on projects not in the transportation program adopted under subsection (a) of this section that will proceed in fiscal year 2021 and the source of funding;

(D) the status of and funding remaining for the programs established pursuant to 2019 Acts and Resolves No. 59, Sec. 34;

(E) the balance of funding available for public transit under federal COVID-19 legislation; and

(F) any expected reduction in funding available for municipalities.

(d) Definitions. As used in this act, unless otherwise indicated:

(1) "Agency" means the Agency of Transportation.

(2) “Electric vehicle supply equipment” has the same meaning as in 30 V.S.A. § 201 and is abbreviated “EVSE.”

(3) “Federal COVID-19 legislation” includes any federal infrastructure bills or other federal legislation that provide the State with additional federal funding for transportation-related projects in fiscal year 2021 or was enacted as a result of COVID-19.

(4) “Plug-in electric vehicle,” “plug-in hybrid electric vehicle,” and “battery electric vehicle” have the same meanings as in 23 V.S.A. § 4(85) as amended by this act and are abbreviated “PEV,” “PHEV,” and “BEV.”

(5) “Secretary” means the Secretary of Transportation.

(6) “TIB funds” means monies deposited in the Transportation Infrastructure Bond Fund in accordance with 19 V.S.A. § 11f.

(7) The table heading “As Proposed” means the proposed Transportation Program referenced in subsection (a) of this section; the table heading “As Amended” means the amendments as made by this act; the table heading “Change” means the difference obtained by subtracting the “As Proposed” figure from the “As Amended” figure; and the terms “change” or “changes” in the text refer to the project- and program-specific amendments, the aggregate sum of which equals the net “Change” in the applicable table heading.

\* \* \* Summary of Transportation Investments \* \* \*

Sec. 1a. FISCAL YEAR 2021 TRANSPORTATION INVESTMENTS  
INTENDED TO REDUCE TRANSPORTATION-RELATED  
GREENHOUSE GAS EMISSIONS, REDUCE FOSSIL FUEL  
USE, AND SAVE VERMONT HOUSEHOLDS MONEY

This act includes the State’s fiscal year 2021 transportation investments intended to reduce transportation-related greenhouse gas emissions, reduce fossil fuel use, and save Vermont households money in furtherance of the policies articulated in 19 V.S.A. § 10b and the goals of the Comprehensive Energy Plan and to satisfy the Executive and Legislative Branches’ commitments to the Paris Agreement climate goals. In fiscal year 2021, these efforts will include the following:

(1) Park and Ride Program. This act provides for a fiscal year expenditure of \$5,580,568.00, which will fund five park and ride construction projects and the design of four additional facilities scheduled for construction in fiscal year 2022. This year’s park and ride program will create 330 new State-owned spaces and result in the installation of 43 level 1 EVSE charging ports. Specific additions and improvements include:

- (A) Williston—Construction of 142 new spaces;
- (B) Royalton—Construction of 91 new spaces;
- (C) Cambridge—Improvements to existing spaces;
- (D) Thetford—Construction of 42 new spaces;
- (E) Berlin (Exit 6)—Design for 65 spaces;
- (F) Berlin (Exit 7)—Design for 75 spaces;
- (G) Manchester—Design for 50 spaces; and
- (H) Williamstown—Construction of 55 new spaces.

(2) Bike and Pedestrian Facilities Program. This act, in concert with the Capital Construction Act, provides for a fiscal year expenditure of \$18,230,970.00, which will fund 39 bike and pedestrian construction projects, and 12 bike and pedestrian design, right-of-way, or design and right-of-way projects for construction in fiscal year 2021. The construction projects include the creation, improvement, or rehabilitation of walkways, sidewalks, shared use paths, bike paths, and cycling lanes. Projects are funded in Arlington, Bennington, Burlington, Chester, Colchester-Essex, Dover, East Montpelier, Enosburg Falls, Fairfield, Hardwick, Hartford, Hinesburg, Jericho, Johnson, Lake Champlain causeway, Middlebury, Milton, Montpelier-Berlin, Moretown, Pittsford, Plainfield, Proctor, Richford, Rochester, Rutland City, Shelburne, South Burlington, Springfield, St. Albans City, St. George, St. Johnsbury, Swanton, Underhill, Waitsfield, Waterbury, West Rutland, Williston, and Wilmington.

(3) Transportation Alternatives Program. This act provides for a fiscal year expenditure of \$2,763,408.00, which will fund 16 transportation alternatives construction projects and 22 design, right-of-way, or design and right-of-way projects. Of these 38 projects, 22 involve environmental mitigation related to clean water, stormwater, or both clean water and stormwater concerns, and the remaining 15 involve bicycle and pedestrian facilities. Projects are funded in Bennington, Bridgewater, Bridport, Castleton, Chester, Colchester, Derby, Duxbury, East Montpelier, Enosburg, Essex, Essex Junction, Fair Haven, Franklin, Granville, Hartford, Hyde Park, Jericho, Middletown Springs, Montgomery, Newfane, Norwich, Pittsford, Rutland City, Shelburne, South Burlington, St. Albans, St. Johnsbury, Thetford, Vergennes, Warren, Wilmington, and Winooski.

(4) Public Transit Program. This act authorizes \$37,852,845.00 in funding for public transit uses throughout the State, which is a 30.4 percent increase over fiscal year 2019 levels. An additional \$3,000,000.00 flows

through the State directly to the Green Mountain Transportation Authority. Included in the authorization are:

(A) Go! Vermont with an authorization of \$858,434.00. This authorization supports the promotion and use of carpools and vanpools.

(B) Barre Transit Expansion with an authorization of \$275,000.00. This authorization increases service available through Barre Transit.

(C) Capital Commuters with an authorization of \$100,000.00. This program provides discounted bus passes to those commuting to work in Montpelier.

(D) Vermont Kidney Association Grant with an authorization of \$50,000.00. This authorization supports the transit needs of Vermonters in need of dialysis services.

(E) Transportation Demand Management and Micro-Transit Innovations Grant Program with an authorization of \$500,000.00. Sec. 16 of this act creates the Transportation Demand Management and Micro-Transit Innovations Grant Program, to be administered by the Agency of Transportation, that will provide grant funding to incentivize and continue support for the advancement of transportation demand management programs and new transit initiatives that improve mobility and access for transit-dependent Vermonters, reduce greenhouse gas emissions, or both.

(5) Rail Program. This act authorizes \$30,815,640.00 for intercity passenger rail service and rail infrastructure throughout the State, including modifications to the Burlington Vermont Rail Systems railyard to accommodate overnight servicing to facilitate New York City-Burlington rail service.

(6) Transformation of the State Vehicle Fleet. The Department of Buildings and General Services, which manages the State Vehicle Fleet, added 44 additional hybrid vehicles to the fleet in fiscal year 2020. In fiscal year 2021, the Department of Buildings and General Services expects to add 24 additional PHEVs and three additional BEVs to the fleet. The Capital Construction Act authorizes \$75,000.00 for the installation of EVSE in State-owned parking lots under the jurisdiction of the Department of Buildings and General Services. This will increase the number of charging stations by eight to 10 stations, with 16 to 20 charging ports in total and is in addition to the following EVSE that will be installed by the Department of Buildings and General Services during the first two months of fiscal year 2021:

(A) Rutland Parking Garage—four stations, with eight charging ports in total;

(B) 134–136 State Street, Montpelier—seven stations, with 12 charging ports in total;

(C) Southern State Correctional Facility—one station, with two charging ports in total; and

(D) Newport Emory Hebard Office Building—one station, with two charging ports in total.

(7) Electric vehicle supply equipment. In furtherance of the State’s goal to have a direct current (DC) fast-charging station within 30 miles of every residence in Vermont, the Capital Construction Act authorizes \$750,000.00 to the VW EVSE Grant Program.

(8) Vehicle incentive programs. Sec. 14 of this act authorizes an additional \$50,000.00 to support administrative costs associated with MileageSmart, which is the State’s used high fuel efficiency vehicle incentive program, and to ensure that the State’s emissions repair program is operational not later than July 1, 2021. Secs. 3 and 5 of this act also authorize the Secretary of Transportation to expend additional monies on the New PEV Incentive Program and MileageSmart if such funding becomes available.

\* \* \* Federal Funding \* \* \*

## Sec. 2. FEDERAL INFRASTRUCTURE AND CAPITAL FUNDING

(a) If federal COVID-19 legislation is enacted, the Secretary is authorized to:

(1) exceed federal spending authority in the fiscal year 2020 Transportation Program and fiscal year 2021 Transportation Program and to obligate and expend the federal monies, as practicable, on the following federally eligible projects, with a priority placed on projects, such as the purchase of PEV buses for public transit and the construction of bicycle and pedestrian facilities and EVSE, that will directly contribute to the reduction of greenhouse gas emissions consistent with the State’s 2016 Comprehensive Energy Plan and projects that will keep Vermonters employed, promote economic activity, and allow the State and municipalities to catch up on deferred maintenance:

(A) projects in the fiscal year 2020 Transportation Program and fiscal year 2021 Transportation Program;

(B) additional town highway projects; and

(C) activities that meet federal eligibility and readiness criteria;



(2) notwithstanding any provision of Title 19 of the Vermont Statutes Annotated to the contrary, waive any Title 19 match requirements for projects funded under federal COVID-19 legislation; and

(3) require that municipalities meet nonfederal match requirements for projects not authorized in the fiscal year 2020 Transportation Program or fiscal year 2021 Transportation Program funded under federal COVID-19 legislation.

(b) The Agency shall promptly report the obligation or expenditure of monies under the authority of subsection (a) of this section in writing to the House and Senate Committees on Transportation and to the Joint Fiscal Office while the General Assembly is in session and to the Joint Fiscal Office, the Joint Fiscal Committee, and the Joint Transportation Oversight Committee when the General Assembly is not in session.

(c) Nothing in this section shall be construed to authorize the Secretary to obligate or expend State Transportation Funds, General Funds, or TIB funds above amounts authorized in the fiscal year 2020 Transportation Program or fiscal year 2021 Transportation Program.

(d) Subsections (a) and (b) of this section shall continue in effect until February 1, 2021.

\* \* \* Additional Agency Spending; Redirection \* \* \*

### Sec. 3. AGENCY SPENDING; AUTHORITY TO REDIRECT; REPORT

(a) Notwithstanding Sec. 1 of this act; 2019 Acts and Resolves No. 59, Sec. 1; 19 V.S.A. § 10g(n); and 32 V.S.A. § 706, the Secretary is authorized to utilize State and federal monies for any of the following activities that will keep Vermonters employed, promote economic activity, and allow the State and municipalities to catch up on deferred maintenance in fiscal years 2020 and 2021, provided that the Agency expects to accept and obligate federal monies pursuant to subsection 2(a) of this act in an amount sufficient to cover the additional expenditures:

- (1) bridge maintenance;
- (2) paving and surface maintenance;
- (3) clearing of trees and brush in rights-of-way;
- (4) ledge and slope remediation;
- (5) culvert repair and replacement; and

(6) any other maintenance activities that are expected to provide an economic stimulus in Vermont communities.

(b) Notwithstanding Sec. 1 of this act; 2019 Acts and Resolves No. 59, Sec. 1; 19 V.S.A. § 10g(n); and 32 V.S.A. § 706, the Secretary is authorized to utilize State and federal monies for any of the following greenhouse gas emissions reduction efforts in fiscal years 2020 and 2021, provided that the Agency expects to accept and obligate federal monies pursuant to subsection 2(a) of this act in an amount sufficient to cover the additional expenditures:

(1) funding for a grant program for the installation of EVSE that builds upon the existing VW EVSE Grant Program that the Department of Housing and Community Development has been administering on behalf of the Department of Environmental Conservation;

(2) PEV buses for public transit;

(3) PEVs for the State motor vehicle fleet; and

(4) funding, not to exceed \$1,000,000.00, for the New PEV Incentive Program created pursuant to 2019 Acts and Resolves No. 59, Sec. 34 as amended by the act.

(c) If the expenditure of monies pursuant to subsection (a) or (b) of this section will not significantly delay the planned work schedule of a project in the fiscal year 2020 and 2021 Transportation Programs, the Secretary may enter into a contract for the activity or proceed with the expenditure and shall give prompt notice of the contract or expenditure to the Joint Fiscal Office and to the House and Senate Committees on Transportation when the General Assembly is in session and to the Joint Fiscal Office and the Joint Transportation Oversight Committee when the General Assembly is not in session.

(d) If the expenditure of monies pursuant to subsection (a) or (b) of this section will significantly delay the planned work schedule of a project, the Secretary may enter into a contract for the activity or proceed with the expenditure but shall give advance notice of at least 10 business days prior to executing the contract or making the expenditure to the House and Senate Committees on Transportation when the General Assembly is in session and to the Joint Fiscal Office, Joint Fiscal Committee, and Joint Transportation Oversight Committee when the General Assembly is not in session.

(e) The Secretary of Administration shall, on or before July 31, 2020, file a written report listing all expenditures made during fiscal year 2020 under the authority of subsections (a) and (b) of this section to the House and Senate Committees on Transportation, Joint Fiscal Office, Joint Fiscal Committee, and Joint Transportation Oversight Committee.

(f) The Secretary of Administration shall, on or before July 31, 2021, file a written report listing all expenditures made during fiscal year 2021 under the authority of subsections (a) and (b) of this section to the House and Senate Committees on Transportation, Joint Fiscal Office, Joint Fiscal Committee, and Joint Transportation Oversight Committee.

(g) The reports required pursuant to subsections (e) and (f) of this section shall be in addition to the report required pursuant to 19 V.S.A. § 10g(e).

\* \* \* Amtrak; Burlington Rail Yard Realignment \* \* \*

Sec. 4. ADDITION OF BURLINGTON RAIL YARD REALIGNMENT  
FOR AMTRAK PROJECT

The following project is added to the development and evaluation list of Rail within the Agency’s Fiscal Year 2020 Transportation Program, as adopted pursuant to 2019 Acts and Resolves No. 59, Sec. 1, and the development and evaluation list of Rail within the Agency’s Proposed Fiscal Year 2021 Transportation Program: Burlington – Railyard Realignment for Amtrak.

\* \* \* Highway Maintenance \* \* \*

Sec. 5. HIGHWAY MAINTENANCE

(a) Within the Agency of Transportation’s Proposed Fiscal Year 2021 Transportation Program for Maintenance, authorized spending is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Personal Services	45,757,089	45,757,089	0
Operating Expenses	52,896,134	52,296,134	-600,000
Grants	240,200	240,200	0
Total	98,893,423	98,293,423	-600,000
<u>Sources of funds</u>			
State	96,415,636	95,815,636	-600,000
Federal Interdepart.	2,377,787	2,377,787	0
Transfer	100,000	100,000	0
Total	98,893,423	98,293,423	-600,000

(b) If, as of June 30, 2021, the Agency of Transportation has expended less on Maintenance Operating Expenses in fiscal year 2021 than it did in fiscal year 2020 then:

(1) authorized spending in the Agency of Transportation’s Proposed Fiscal Year 2021 Transportation Program for Maintenance is further amended by decreasing Operating Expenses by the difference between the amount expended on Maintenance Operating Expenses in fiscal year 2020 and the amount expended on Maintenance Operating Expenses in fiscal year 2021 through June 30, 2021, but not to exceed \$700,000.00, and

(2) the Secretary shall authorize the expenditure of the difference between the amount expended on Maintenance Operating Expenses in fiscal year 2020 and the amount expended on Maintenance Operating Expenses in fiscal year 2021 through June 30, 2021, but not to exceed \$700,000.00, in equal proportions, on the New PEV Incentive Program and MileageSmart established pursuant to 2019 Acts and Resolves No. 59, Sec. 34 as amended by this act.

\* \* \* Aviation \* \* \*

Sec. 5a. CLARENDON SRE BUILDING

Within the Agency of Transportation’s Proposed Fiscal Year 2021 Transportation Program for Aviation, authorized spending for Clarendon AV-FY20-001 is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	20,000	0	-20,000
Construction	575,000	0	-575,000
Total	595,000	0	-595,000
<u>Sources of funds</u>			
State	595,000	0	-595,000
Total	595,000	0	-595,000

Sec. 5b. MORRISTOWN FUEL FARM

Within the Agency of Transportation’s Proposed Fiscal Year 2021 Transportation Program for Aviation, authorized spending for Morristown AV-FY21-015 is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	150,000	345,000	195,000
Total	150,000	345,000	195,000
<u>Sources of funds</u>			
State	150,000	345,000	195,000
Total	150,000	345,000	195,000
* * * Transportation Buildings * * *			

Sec. 5c. LUNENBURG GARAGE

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Transportation Buildings, authorized spending for Transportation Buildings Lunenburg is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
PE	25,000	25,000	0
Construction	350,000	0	-350,000
Total	375,000	25,000	-350,000
<u>Sources of funds</u>			
State	375,000	25,000	-350,000
Total	375,000	25,000	-350,000
* * * Program Development * * *			
* * * Roadway * * *			

Sec. 6. PROGRAM DEVELOPMENT; ROADWAY

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Program Development—Roadway, authorized spending for Burlington MEGC M 5000(1) is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	8,000,000	6,420,000	-1,580,000
Total	8,000,000	6,420,000	-1,580,000

Sources of funds

TIB	240,000	192,600	-47,400
Federal	7,600,000	6,099,000	-1,501,000
Local	160,000	128,400	-31,600
Total	8,000,000	6,420,000	-1,580,000

\* \* \* Safety and Traffic Operations \* \* \*

Sec. 7. PROGRAM DEVELOPMENT; SAFETY AND TRAFFIC OPERATIONS

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Program Development—Safety and Traffic Operations, authorized spending for Colchester HES NH 5600(14) is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	7,000,000	4,900,000	-2,100,000
Total	7,000,000	4,900,000	-2,100,000

Source of funds

Federal	7,000,000	4,900,000	-2,100,000
Total	7,000,000	4,900,000	-2,100,000

\* \* \* Bicycle and Pedestrian Facilities \* \* \*

Sec. 7a. PROGRAM DEVELOPMENT; BICYCLE AND PEDESTRIAN GRANT PROGRAM

Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Program Development—Bicycle and Pedestrian Facilities, authorized spending for Statewide State-Aid Construction Projects is amended as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Construction	468,500	868,500	400,000
Total	468,500	868,500	400,000

Sources of funds

State	234,250	434,250	200,000
Local	234,250	434,250	200,000
Total	468,500	868,500	400,000

\* \* \* Public Transit \* \* \*

Sec. 8. PUBLIC TRANSIT; FARE-FREE

It is the intent of the General Assembly that public transit operated by transit agencies that are eligible to receive grant funds pursuant to 49 U.S.C. § 5307 or 5311, or both, in the State shall be operated on a fare-free basis with monies for public transit from the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136 (CARES Act) as practicable.

Sec. 9. PUBLIC TRANSIT; ADDITION OF INCREASED PUBLIC TRANSIT FOR FISCAL YEAR 2021

(a) The following project is added to the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Public Transit: Increased Public Transit for Fiscal Year 2021.

(b) Spending authority for Increased Public Transit for Fiscal Year 2021 is authorized as follows:

<u>FY21</u>	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
Other	0	500,000	500,000
Total	0	500,000	500,000
<u>Sources of funds</u>			
State	0	500,000	500,000
Total	0	500,000	500,000

(c) To the extent that the Agency is able to secure additional unobligated federal funds for Increased Public Transit for Fiscal Year 2021, the spending authority for Increased Public Transit for Fiscal Year 2021 is increased by that same amount in federal funds.

(d) The Agency shall increase public transit initiatives in fiscal year 2021 in conformance with the implementation plan in the Agency of Transportation's 2019 Public Transit Policy Plan (PTPP) and findings of the Report on Methods to Increase the Use of Public Transit in Vermont prepared pursuant to 2019 Acts and Resolves No. 59, Sec. 20. Additional initiatives may include:

- (1) adding new local and regional service connections to improve rural ridership;
- (2) providing support for technology improvements for transit;
- (3) expanding access to available seats in transit vehicles; and

(4) marketing and engaging with the public to increase awareness of public transit options.

\* \* \* Lamoille Valley Rail Trail \* \* \*

Sec. 10. LAMOILLE VALLEY RAIL TRAIL

(a) Within the Agency of Transportation's Proposed Fiscal Year 2021 Transportation Program for Program Development—Bike & Pedestrian Facilities, authorized spending for Swanton-St. Johnsbury LVRT ( ) is amended as follows:

	<u>As Proposed</u>	<u>As Amended</u>	<u>Change</u>
<u>FY21</u>			
Other	2,500,000	7,030,000	4,530,000
Total	2,500,000	7,030,000	4,530,000
<u>FY22</u>			
Other	3,500,000	7,000,000	3,500,000
Total	3,500,000	7,000,000	3,500,000
<u>FY23</u>			
Other	4,500,000	0	-4,500,000
Total	4,500,000	0	-4,500,000
<u>FY24</u>			
Other	3,500,000	0	-3,500,000
Total	3,500,000	0	-3,500,000
<u>Sources of funds FY21</u>			
State	0	0	0
Other	500,000	1,430,000	930,000
Federal	2,000,000	5,600,000	3,600,000
Total	2,500,000	7,030,000	4,530,000
<u>Sources of funds FY22</u>			
State	0	0	0
Other	0	1,400,000	1,400,000
Federal	0	5,600,000	5,600,000
Total	0	7,000,000	7,000,000



(b) In the Agency of Transportation’s Proposed Fiscal Year 2021 Transportation Program for Program Development—Bike & Pedestrian Facilities, “Other funds of \$500,000 are General Obligation Bond proceeds appropriated in the capital bill for the Lamoille Valley Rail Trail” is struck, and “Other funds of \$2,830,000 are General Obligation Bond proceeds appropriated in the capital construction act for the Lamoille Valley Rail Trail, but if matching federal funds are not available or if federal funds do not require a state match, the funds shall be used for projects in a future capital construction act” is inserted in lieu thereof.

\* \* \* Central Garage \* \* \*

Sec. 11. TRANSFER TO CENTRAL GARAGE FUND

Notwithstanding 19 V.S.A. § 13(c)(1), in fiscal year 2021, the amount of \$1,605,358.00 is transferred from the Transportation Fund to the Central Garage Fund created in 19 V.S.A. § 13.

Sec. 12. CENTRAL GARAGE EQUIPMENT

In fiscal year 2021, the amount of \$8,668,094.00 is authorized for replacement equipment pursuant to 19 V.S.A. § 13(b) and, of this amount, a minimum of \$250,000.00 shall be dedicated for the replacement of Department of Motor Vehicles enforcement fleet vehicles.

\* \* \* Plug-In Electric Vehicle Definitions \* \* \*

Sec. 13. 23 V.S.A. § 4(85) is amended to read:

(85) “Plug-in electric vehicle” means a motor vehicle that can be powered by an electric motor drawing current from a rechargeable energy storage system, such as from storage batteries or other portable electrical energy storage devices provided that the vehicle can draw recharge energy from a source off the vehicle such as electric vehicle supply equipment. A “plug-in electric vehicle” includes both a “battery electric vehicle” and a “plug-in hybrid electric vehicle” where:

(A) “battery electric vehicle” means a motor vehicle that can only be powered by an electric motor drawing current from a rechargeable energy storage system; and

(B) “plug-in hybrid electric vehicle” means a motor vehicle that can be powered by an electric motor drawing current from a rechargeable energy storage system but also has an onboard combustion engine.

\* \* \* Programs and Incentives to Foster Efficient Vehicle Adoption \* \* \*

Sec. 14. 2019 Acts and Resolves No. 59, Sec. 34 is amended to read:

Sec. 34. VEHICLE INCENTIVE AND EMISSIONS REPAIR PROGRAMS

(a) Vehicle incentive and emissions repair programs administration.

(1) ~~The Agency of Transportation (Agency), in consultation with the Agency of Natural Resources, the Agency of Human Services, the Department of Environmental Conservation and of Public Service, Vermont electric distribution utilities that are offering incentives for PEVs, and the State's network of community action agencies, shall establish and administer the programs described in subsections (b) and (c) of this section.~~

(2) ~~The Agency is authorized to spend \$2,000,000.00 as appropriated in the fiscal year 2020 budget, \$50,000.00 in Transportation Fund monies, and any additional monies as appropriated in the fiscal year 2021 budget or Transportation Fund monies authorized to be expended by the Secretary of Transportation pursuant to Secs. 3 and 5 of this act, or both, on the two programs described in subsections (b) and (c) of this section. Notwithstanding any other provision of law and subject to the approval of the Secretary of Administration, appropriations for the programs described in subsections (b) and (c) of this section remaining unexpended on June 30, 2021 shall be carried forward and designated for expenditure on these programs in the subsequent fiscal year.~~

(3) ~~Subject to State procurement requirements, the Agency may retain a contractor or contractors to assist with marketing, program development, and administration of the two programs and up. Up to \$150,000.00 of program funding may be set aside for this purpose. for the programs described in subsection (c) of this section in fiscal year 2020 and \$50,000.00 of program funding shall be set aside for this purpose for the programs described in subsection (c) of this section in fiscal year 2021 and to ensure that the emissions repair program is operational not later than July 1, 2021. In fiscal year 2021, the Agency is authorized to spend up to \$200,000.00 in program funding to continue and expand the Agency's public-private partnership with Drive Electric Vermont to support the expansion of the PEV market in the State through technical and consumer assistance; auto dealer education; outreach and incentive program management, including marketing, consumer support, record keeping and reporting, program development and modification, and general program administration for the program described in subsection (b) of this section; and PEV promotional efforts. The Agency shall develop, in consultation with the Departments of Environmental Conservation~~

and of Public Service, a scope of work for funding the Agency's grants to Drive Electric Vermont pursuant to this section.

(4) The Agency shall administer the program described in subsection (b) of this section through no-cost contracts with the State's electric distribution utilities.

(5) The Agency shall annually evaluate the two programs to gauge effectiveness and submit a written report on the effectiveness of the programs to the House and Senate Committees on Transportation, the House Committee on Energy and Technology, and the Senate Committee on Finance on or before the 31st day of ~~December~~ January in each year following a year that an incentive or repair voucher is ~~is~~ provided through one of the programs. Notwithstanding 2 V.S.A. § 20(d), the annual report required under this section shall continue to be required if an incentive or repair voucher is provided through one of the programs unless the General Assembly takes specific action to repeal the report requirement.

(b) Electric vehicle incentive program. A new PEV purchase and lease incentive program for Vermont residents shall structure PEV purchase and lease incentive payments by income to help all Vermonters benefit from electric driving, including Vermont's most vulnerable. The program shall be known as the New PEV Incentive Program. Specifically, the program New PEV Incentive Program shall:

(1) apply to both purchases and leases of new PEVs with an emphasis on creating and matching incentives for ~~exclusively electric powered vehicles that do not contain an onboard combustion engine~~ BEVs;

(2) provide ~~incentives not more than one~~ incentive of \$1,500.00 for a PHEV or \$2,500.00 for a BEV to Vermont households with low and moderate income at or below 160 percent of the State's prior five-year average Median Household Income (MHI) level:

(A) an individual domiciled in the State whose federal income tax filing status is single or head of household with an adjusted gross income under the laws of the United States greater than \$50,000.00 and at or below \$100,000.00;

(B) an individual domiciled in the State whose federal income tax filing status is surviving spouse with an adjusted gross income under the laws of the United States greater than \$50,000.00 and at or below \$125,000.00;

(C) a married couple with at least one spouse domiciled in the State whose federal income tax filing status is married filing jointly with an adjusted

gross income under the laws of the United States greater than \$50,000.00 and at or below \$125,000.00; or

(D) a married couple with at least one spouse domiciled in the State and at least one spouse whose federal income tax filing status is married filing separately with an adjusted gross income under the laws of the United States greater than \$50,000.00 and at or below \$100,000.00;

(3) provide not more than one incentive of \$3,000.00 for a PHEV or \$4,000.00 for a BEV to:

(A) an individual domiciled in the State whose federal income tax filing status is single, head of household, or surviving spouse with an adjusted gross income under the laws of the United States at or below \$50,000.00;

(B) a married couple with at least one spouse domiciled in the State whose federal income tax filing status is married filing jointly with an adjusted gross income under the laws of the United States at or below \$50,000.00; or

(C) a married couple with at least one spouse domiciled in the State and at least one spouse whose federal income tax filing status is married filing separately with an adjusted gross income under the laws of the United States at or below \$50,000.00;

(4) apply to manufactured PEVs with a Base Manufacturer's Suggested Retail Price (MSRP) of \$40,000.00 or less; and

(4)(5) provide ~~no~~ not less than \$1,100,000.00, of the initial \$2,000,000.00 authorization, and up to an additional \$2,050,000.00 in fiscal year 2021 in PEV purchase and lease incentives.

(c) High fuel efficiency vehicle incentive and emissions repair ~~program~~ programs. ~~A used~~ Used high fuel efficiency vehicle purchase incentive and emissions repair ~~program~~ programs for Vermont residents shall structure high fuel efficiency purchase incentive payments and emissions repair vouchers by income to help all Vermonters benefit from more efficient driving, including Vermont's most vulnerable. Not less than \$750,000.00 shall be provided in point-of-sale and point-of repair vouchers.

(1) ~~Specifically, the~~ The high fuel efficiency vehicle incentive program shall be known as MileageSmart and shall:

(1)(A) apply to purchases of used high fuel-efficient motor vehicles, which for purposes of this program shall be pleasure cars with a combined city/highway fuel efficiency of at least 40 miles per gallon or miles per gallon equivalent as rated by the Environmental Protection Agency when the vehicle

~~was new, and repairs of certain vehicles that failed the on board diagnostic (OBD) systems inspection;~~

~~(2)(B) provide point-of-sale vouchers through the State's network of community action agencies and base eligibility for the point-of-sale voucher on the same criteria used for income qualification for weatherization services through the Weatherization Program and eligibility for the point-of-repair vouchers on the same criteria used for income qualification for Low Income Home Energy Assistance Program (LIHEAP) through the State's Economic Services Division within the Department for Children and Families; and~~

~~(3)(C) provide one of the following to qualifying individuals:~~

~~(A) a point-of-sale voucher of up to \$5,000.00 to assist in the purchase of a used high fuel-efficient motor vehicle that may require that a condition of the voucher be that if the individual is the owner of either a motor vehicle that failed the OBD systems inspection or a motor vehicle that is more than 15 years old and has a combined city/highway fuel efficiency of less than 25 miles per gallon as rated by the Environmental Protection Agency when the vehicle was new that the vehicle will be removed from operation and either donated to a nonprofit organization to be used for parts or destroyed; or~~

~~(B)(2) The emissions repair program, which shall be operational on or before July 1, 2021, shall:~~

~~(A) apply to repairs of certain vehicles that failed the on board diagnostic (OBD) systems inspection;~~

~~(B) provide point-of-repair vouchers through the State's network of community action agencies and base eligibility for voucher on the same criteria used for income qualification for Low Income Home Energy Assistance Program (LIHEAP) through the State's Economic Services Division within the Department for Children and Families; and~~

~~(C) provide a point-of-repair voucher to repair a motor vehicle that was ready for testing, failed the OBD systems inspection, requires repairs that are not under warranty, and will be able to pass the State's vehicle inspection once the repairs are made provided that the point-of-repair voucher is commensurate with the fair market value of the vehicle to be repaired and does not exceed \$2,500.00, with \$2,500.00 vouchers only being available to repair vehicles with a fair market value of at least \$5,000.00.~~

\* \* \*

\* \* \* Class 2 Town Highway Roadway Program \* \* \*

Sec. 15. 19 V.S.A. § 306(h) is amended to read:

(h) Class 2 Town Highway Roadway Program. There shall be an annual appropriation for grants to municipalities for resurfacing, rehabilitation, or reconstruction of paved or unpaved class 2 town highways. However, municipalities that have no State highways or class 1 town highways within their borders may use the grants for such activities with respect to both class 2 and class 3 town highways. Each fiscal year, the Agency shall approve qualifying projects with a total estimated State share cost of \$7,648,750.00 at a minimum as new grants. The Agency's proposed appropriation for the Program shall take into account the estimated amount of qualifying invoices submitted to the Agency with respect to project grants approved in prior years but not yet completed as well as with respect to new project grants to be approved in the fiscal year. In a given fiscal year, should expenditures in the Class 2 Town Highway Roadway Program exceed the amount appropriated, the Agency shall advise the Governor of the need to request a supplemental appropriation from the General Assembly to fund the additional project cost, provided that the Agency has previously committed to completing those projects. Funds received as grants for State aid under the Class 2 Town Highway Roadway Program may be used by a municipality to satisfy a portion of the matching requirements for federal earmarks, subject to subsection 309b(c) of this title.

\* \* \* Transportation Demand Management and  
Micro-Transit Innovations Grant Program \* \* \*

Sec. 16. TRANSPORTATION DEMAND MANAGEMENT AND MICRO-TRANSIT INNOVATIONS GRANT PROGRAM

(a) The Agency shall establish and administer a transportation demand management and micro-transit innovations grant program within the Public Transit Program to incentivize and continue support for the advancement of transportation demand management programs and new transit initiatives.

(b) The Agency shall distribute \$500,000.00 in grant awards, with each recipient only eligible to receive up to \$100,000.00 in grant awards.

(c) Grant awards may be used for one or more of the following: matching funds for other grant awards; program delivery costs; or for the extension of existing programs.

(d) Grant awards shall be distributed not later than November 30, 2020 and shall incentivize innovative strategies that improve both mobility and access

for transit-dependent Vermonters, reduce the use of single occupancy vehicles for work trips, and reduce greenhouse gas emissions.

\* \* \* All-Terrain Vehicles \* \* \*

Sec. 17. 23 V.S.A. §§ 3501 and 3502 are amended to read:

§ 3501. DEFINITIONS

As used in this chapter:

(1) ~~“Commissioner” means the Commissioner of Motor Vehicles unless otherwise stated.~~

(2) ~~“Department” means Department of Motor Vehicles unless otherwise stated.~~

(3) ~~“Operate” includes an attempt to operate and shall be construed to cover all matters and things connected with the presence and use of all-terrain vehicles whether they be at motion or rest.~~

(4) ~~“Secretary” means the Secretary of Natural Resources.~~

(5) “All-terrain vehicle” or “ATV” means any nonhighway recreational vehicle, except snowmobiles, having ~~no~~ not less than two low pressure tires (10 pounds per square inch, or less), not wider than 64 inches with two-wheel ATVs having permanent, full-time power to both wheels, and having a dry weight of less than 1,700 pounds, when used for cross-country travel on trails or on any one of the following or a combination thereof: land, water, snow, ice, marsh, swampland, and natural terrain. An ATV on a public highway shall be considered a motor vehicle, as defined in section 4 of this title, only for the purposes of those offenses listed in subdivisions 2502(a)(1)(H), (N), (R), (U), (Y), (FF), (GG), (II), and (AAA); (2)(A) and (B); (3)(A), (B), (C), and (D); (4)(A) and (B) and (5) of this title and as provided in section 1201 of this title. An ATV shall not include an electric personal assistive mobility device.

(2) “Department” means the Department of Motor Vehicles unless otherwise stated.

(3) “Direct supervision” means that the supervisor shall be sufficiently close and able to control, by communicating visually or orally, the operation of an ATV by an operator under 16 years of age, taking into account the noise created by an ATV and protective headgear worn by the operator.

(4) “Farm” means a parcel or parcels of land owned, leased, or managed by a person and devoted primarily to farming.

(5) “Forestry operation” has the same meaning as in 10 V.S.A. § 2602.

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

(7) “State lands” means land owned, leased, or otherwise controlled by the State.

(6)(8) “Club or association” means an all-terrain vehicle club or “VASA” means the Vermont ATV Sportsman’s Association, a statewide association of ATV clubs.

§ 3502. REGISTRATION AND TRAIL ACCESS DECAL (TAD)

REQUIRED; EXCEPTIONS

(a)(1) An all-terrain vehicle may not be operated Except as otherwise provided in this section, an individual shall not operate an ATV on the VASA Trail System, on State land designated by the Secretary pursuant to subdivision 3506(b)(4) of this title, or along any highway that is not adjacent to the property of the operator unless the ATV:

(A) is registered pursuant to this chapter or any other section of this title by the State of Vermont and unless the all-terrain vehicle or in accordance with subsection (e) of this section; and

(B) displays a valid Vermont ATV Sportsman’s Association (VASA) VASA Trail Access Decal (TAD) when operating on a VASA trail, except when operated.;

(1)(2) Notwithstanding subdivision (1) of this subsection, neither registration nor display of a TAD is required to operate an ATV:

(A) On on the property of the owner of the all-terrain vehicle. ATV;

(2)(B) Off the highway, In in a ski area while being used, off the highway, for the purpose of grooming snow, maintenance, or in rescue operations.;

(3)(C) For for official use by a federal, State, or municipal agency and only if the all-terrain vehicle ATV is identified with the name or seal of the agency in a manner approved by the Commissioner.; or

(4)(D) Solely on privately owned land when the operator is specifically invited to do so by the owner of that the property and has on his or her person carries the written consent of the owner.

(5)(3) By a person who Notwithstanding subdivision (1) of this subsection, an operator may operate an ATV without a TAD displayed if the operator possesses a completed TAD form processed electronically and within the prior 10 days that is either printed out or displayed on a portable electronic device. The printed or electronic TAD form shall be valid for 10 days after the



~~electronic transaction.~~ Use of a portable electronic device to display a completed TAD form does not in itself constitute consent for an enforcement officer to access other contents of the device.

\* \* \*

(c) ~~The possession of a valid TAD or registration of an all-terrain vehicle~~ ATV does not constitute a license to ~~cross or~~ operate an ~~all-terrain vehicle~~ ATV on public or private lands, even if temporarily while crossing the public or private lands.

(d) ~~An all-terrain vehicle which~~ ATV that does not comply with the provisions of this chapter ~~may~~ shall not be registered by the Commissioner.

(e) ~~An all-terrain vehicle~~ ATV owned by a person who is a resident of any other state or province shall be deemed to be properly registered for the purposes of this chapter if it is registered in accordance with the laws of the state or province in which its owner resides. An operator who is a resident of any other state or province shall be subject to the provisions of this chapter while operating an ATV within this State, including possessing a valid TAD in the same circumstances that a resident of this State is required to possess a valid TAD.

Sec. 18. 23 V.S.A. § 3506 is amended to read:

§ 3506. OPERATION; PROHIBITED ACTS; FINANCIAL RESPONSIBILITY; HEADGEAR

(a) A person shall only operate an ATV, or permit an ~~all-terrain vehicle~~ ATV owned by him or her or under his or her control to be operated, in accordance with this chapter.

(b) ~~An all-terrain vehicle~~ ATV shall not be operated:

(1) Along a public highway except if one or more of the following applies:

(A) ~~the highway is not being maintained during the snow season;~~

(B) ~~the highway has been opened to all-terrain vehicle~~ ATV travel by the ~~selectboard or trustees or local governing body~~ legislative body of the municipality where the town highway is located or, for State highways, the Secretary of Transportation and is so posted by the municipality;

(C)(B) ~~the all-terrain vehicle~~ ATV is being used for agricultural purposes and is operated not closer than three feet from the traveled portion of any highway for the purpose of traveling within the confines of the farm; ~~or~~

(C) the ATV is being use for forestry purposes and is operated not closer than three feet from the traveled portion of any highway for the purpose of traveling within the confines of the forestry operation; or

(D) the ~~all-terrain vehicle~~ ATV is being used by an employee or agent of an electric transmission or distribution company subject to the jurisdiction of the Public Utility Commission under 30 V.S.A. § 203 for utility purposes, including safely accessing utility corridors, provided that the ~~all-terrain vehicle~~ ATV shall be operated along the edge of the roadway and shall yield to other vehicles.

(2) Across a public highway ~~unless~~ except if all of the following conditions are met:

(A) the crossing is made at an angle of approximately 90 degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; ~~and~~

(B) the operator brings the ~~all-terrain vehicle~~ ATV to a complete stop before entering the ~~travelled~~ traveled portion of the highway; ~~and~~

(C) the operator yields the ~~right-of-way~~ right of way to motor vehicles and pedestrians using the highway; ~~and~~

(D) the operator is 12 years of age or older; ~~and that~~

(E) in the case of an operator under 16 years of age, must be the operator is under the direct supervision of a person an individual 18 years of age or older who does not have a suspended operator's license or privilege to operate.

(3) On any privately owned land or privately owned body of ~~private~~ water unless either:

(A) the operator is the owner, or member of the immediate family of the owner of the land; ~~or~~

(B) the operator ~~has, on his or her person,~~ carries the written consent of the owner or lessee of the land or the land surrounding the privately owned body of water to operate an ~~all-terrain vehicle~~ ATV in the specific area and during specific hours ~~and/or~~ or days, or both in which the operator is operating; ~~or;~~

(C) the ~~all-terrain vehicle~~ ATV displays a valid ~~TAD decal~~ VASA Trail Access Decal (TAD) as required by subsection 3502(a) of this title that serves as proof that the ~~all-terrain vehicle~~ ATV and its operator, by virtue of the TAD, are members of a ~~VASA-affiliated club to which such~~ VASA and

consent has been given orally or in writing to operate an ~~all-terrain vehicle~~ ATV in the area ~~in which~~ where the operator is operating; or

~~(C)~~(D) the owner of the land ~~has~~ or the land surrounding the privately owned body of water designated the area for use by ~~all-terrain vehicles~~ ATVs by posting the area in a manner approved by the Secretary to give reasonable notice that use is permitted.

(4) On any ~~public land~~ municipal lands unless opened to ATV travel by the legislative body of the municipality where the land is located or on any State lands, body of public water, or natural area established under the provisions of 10 V.S.A. § 2607 unless the Secretary has designated the area by the Secretary for use by all-terrain vehicles pursuant to ATVs in rules promulgated adopted under provisions of 3 V.S.A. chapter 25.

(5) By ~~a person~~ an individual under 12 years of age unless he or she is wearing on his or her head protective headgear of a type approved by the Commissioner while operating the ATV or riding as a passenger on the ATV and either:

(A) he or she is on land owned by his or her parents, family, or guardian;

(B) he or she has written permission of the landowner or lessee; or

(C) he or she is under the direct supervision of ~~a person at least an individual~~ 18 years of age or older who does not have a suspended operator's license or privilege to operate.

(6) In any manner ~~intended or that could~~ reasonably to be expected to harm, harass, drive, or pursue any wildlife.

(7) If the registration certificate or consent form ~~is~~ and proof of insurance are not available for inspection, and the registration number, or plate of a size and type approved by the Commissioner, is not displayed on the ~~all-terrain vehicle~~ ATV in a manner approved by the Commissioner.

(8) While the operator is under the influence of drugs or alcohol as defined by this title.

(9) In a careless or negligent manner ~~or in a manner that is inconsistent with the duty of ordinary care,~~ so as to endanger a person an individual or property.

(10) Within a cemetery, public or private, as defined in 18 V.S.A. § 5302.

(11) On limited access highways, ~~rights-of-way~~ rights-of-way, or approaches unless permitted by the Traffic Committee under section 1004 of this title. In no cases shall the use of ~~all-terrain vehicles~~ ATVs be permitted on any portion of the Dwight D. Eisenhower National System of Interstate and Defense Highways unless the Traffic Committee permits operation on these highways.

(12) On a sidewalk unless permitted by the ~~selectboard or trustees of the local governing~~ legislative body of the municipality where the sidewalk is located.

(13) Without liability insurance as described in this subdivision. The owner or operator of an ATV shall not operate or permit the operation of an ATV at locations where the ATV must be registered in order to be lawfully operated under section 3502 of this title without having in effect a bond or a liability policy in the amounts of at least \$25,000.00 for one individual and \$50,000.00 for two or more individuals killed or injured and \$10,000.00 for damages to property in any one accident. In lieu of a bond or liability policy, evidence of self-insurance in the amount of \$115,000.00 must be filed with the Commissioner. Financial responsibility shall be maintained and evidenced in a form prescribed by the Commissioner, and persons who self-insure shall be subject to the provisions of subsection 801(c) of this title.

(14) While the operator's license or privilege to operate a motor vehicle is suspended, unless operated at a location described in subdivision 3502(a)(2)(A) or (D) of this title.

(15) Outside the boundaries of trails established by the VASA Trail System unless such operation is specifically authorized pursuant to another provision of this chapter.

(16) Unless the operator and all passengers wear properly secured protective headgear, of a type approved by the Commissioner and as intended by the manufacturer, if the ATV is operated at locations where the ATV must be registered in order to be lawfully operated under section 3502 of this title.

(c) No public or private landowner shall be liable for any property damage or personal injury sustained by any ~~person~~ individual operating or riding as a passenger on an ~~all-terrain vehicle~~ ATV or upon a vehicle or other device drawn by an ~~all-terrain vehicle~~ ATV upon the public or private landowner's property, whether or not the public or private landowner has given permission to use the land, unless the public or private landowner charges a cash fee to the operator or owner of the ~~all-terrain vehicle~~ ATV for the use of the property or unless damage or injury is intentionally inflicted by the landowner.

(d) In addition to all other requirements, an ~~all-terrain vehicle~~ ATV may not be operated:

(1) if equipped with an exhaust system with a cut out, bypass, or similar device; or

(2) with the spark arrester removed or modified, except for use in closed course competition events.

(e) In addition to all other requirements, an ~~all-terrain vehicle~~ ATV may not be operated by an operator who is less than 18 years of age unless one of the following criteria is met:

(1) the operator is operating on property owned or leased by the operator or his or her parents or guardian; or

(2) the operator is taking a prescribed safety education training course and operating under the direct supervision of a certified ~~all-terrain vehicle~~ ATV safety instructor; or

(3) the operator holds an appropriate safety education certificate issued by this State or issued under the authority of another state or province of Canada.

(f) ~~A person~~ An individual who is required to hold an appropriate safety education certificate under the provisions of subsection (e) of this section shall exhibit the safety education certificate upon demand of a law enforcement officer having authority to enforce the provisions of this section.

(g) ~~Notwithstanding any other provision of law or rule to the contrary, the Commissioner may authorize the temporary operation of all-terrain vehicles not registered in this State on Route 253 in Beecher Falls for an annual special event, provided the all-terrain vehicle is registered in another state or province. [Repealed.]~~

\* \* \* U.S. Postal Service; Vehicle Inspection; Sunset Repeal \* \* \*

Sec. 19. 2017 Acts and Resolves No. 71, Sec. 31(a)(4) is amended to read:

(4) ~~23 V.S.A. § 1222(e), added in Sec. 27 (inspections; mail carrier vehicles), shall be repealed on July 1, 2020. [Repealed.]~~

\* \* \* Permit Fees; Waiver \* \* \*

Sec. 20. AUTHORITY TO WAIVE RIGHT-OF-WAY PERMIT FEES

(a) Notwithstanding 19 V.S.A. § 1112(b), the Secretary is authorized to waive fees associated with permits or permit amendments issued pursuant to

19 V.S.A. § 1111 for any reason associated with the response and recovery to the COVID-19 pandemic.

(b) Subsection (a) of this section shall continue in effect until six months after the conclusion of a state of emergency declared under 20 V.S.A. chapter 1 due to COVID-19.

\* \* \* Use of Pozzolans as an Alternative to Portland Cement \* \* \*

Sec. 21. USE OF POZZOLANS AS AN ALTERNATIVE TO PORTLAND CEMENT

(a) Findings. The General Assembly finds that:

(1) Pozzolans, such as pulverized fuel ash (commonly known as “fly ash”), ground granulated blast-furnace slag, and silica fume, can be used to partially replace a portion of the Portland Cement used in the production of concrete.

(2) Using pozzolans in the production of concrete for transportation infrastructure projects can typically reduce the use of Portland Cement by 40 to 50 percent.

(3) Using pozzolans in a concrete mix design can:

(A) reduce the carbon dioxide emissions associated with transportation infrastructure projects, such as bridges and sidewalks;

(B) increase the compressive strength and durability of concrete; and

(C) decrease construction costs.

(4) Pozzolans cannot be used as a complete substitute for Portland Cement in a concrete mix design because they enhance and do not replace the cementitious properties of Portland Cement as it hydrates as part of the overall chemical reaction that binds and strengthens the concrete.

(b) Use of Portland Cement. The Agency is encouraged to continue researching, testing, and wherever practicable, using pozzolans and alternatives to Portland Cement as part of the concrete mix designs for all transportation infrastructure projects.

\* \* \* Study on Direct-to-Consumer Motor Vehicle Sales; Report \* \* \*

Sec. 22. 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.

\* \* \* Effective Dates \* \* \*

#### Sec. 23. EFFECTIVE DATES

(a) This section and Secs. 2 (federal funding), 3 (spending redirection), 4 (Amtrak), 19 (U.S. Postal Service vehicle inspection exemption sunset repeal; 23 V.S.A. § 1222(e)), and 20 (section 1111 permit fee waiver) shall take effect on passage.

(b) All other sections shall take effect on July 1, 2020.

(Committee vote: 4-1-0)

(For House amendments, see House Journal for May 27, 2020, page 1047.)

**Reported favorably by Senator Ashe for the Committee on Transportation.**

The Committee recommends that the bill ought to pass in concurrence with proposal of amendment as recommended by the Committee on Transportation.

(Committee vote: 6-0-1)

#### **H. 960.**

An act relating to miscellaneous health care provisions.

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

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

\* \* \* Mental Health \* \* \*

Sec. 1. 18 V.S.A. § 9375 is amended to read:

§ 9375. DUTIES



(a) The Board shall execute its duties consistent with the principles expressed in section 9371 of this title.

(b) The Board shall have the following duties:

\* \* \*

~~(15) Collect and review data from each psychiatric hospital licensed pursuant to chapter 43 of this title, which may include data regarding a psychiatric hospital's scope of services, volume, utilization, discharges, payer mix, quality, coordination with other aspects of the health care system, and financial condition. The Board's processes shall be appropriate to psychiatric hospitals' scale and their role in Vermont's health care system, and the Board shall consider ways in which psychiatric hospitals can be integrated into systemwide payment and delivery system reform.~~

Collect and review data from each community mental health and developmental disability agency designated by the Commissioner of Mental Health or of Disabilities, Aging, and Independent Living pursuant to chapter 207 of this title, which may include data regarding a designated or specialized service agency's scope of services, volume, utilization, payer mix, quality, coordination with other aspects of the health care system, and financial condition, including solvency. The Board's processes shall be appropriate to the designated and specialized service agencies' scale and their role in Vermont's health care system, and the Board shall consider ways in which the designated and specialized service agencies can be integrated fully into systemwide payment and delivery system reform.

\* \* \*

Sec. 2. 18 V.S.A. § 9451 is amended to read:

§ 9451. DEFINITIONS

As used in this subchapter:

(1) "Hospital" means a ~~general~~ hospital licensed under chapter 43 of this title, except a hospital that is conducted, maintained, or operated by the State of Vermont.

\* \* \*

Sec. 3. HOSPITAL BUDGET REVIEW; TRANSITIONAL PROVISIONS

(a) For any hospital whose budget newly comes under Green Mountain Care Board review as a result of the amendments to 18 V.S.A. § 9451 made by Sec. 2 of this act, the Board may increase the scope of the budget review process set forth in 18 V.S.A. chapter 221, subchapter 7 for the hospital

gradually, provided the Board conducts a full review of the hospital’s proposed budget not later than the budget for hospital fiscal year 2024. In developing its process for transitioning to a full review of the hospital’s budget, the Board shall collaborate with the hospital and with the Agency of Human Services to prevent duplication of efforts and of reporting requirements. The Board and the Agency shall jointly determine which documents submitted by the hospital to the Agency are appropriate for the Agency to share with the Board.

(b) In determining whether and to what extent to exercise discretion in the scope of its budget review for a hospital new to the Board’s hospital budget review process, the Board shall consider:

(1) any existing fiscal oversight of the hospital by the Agency of Human Services, including any memoranda of understanding between the hospital and the Agency; and

(2) the fiscal pressures on the hospital as a result of the COVID-19 pandemic.

#### Sec. 4. 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 Disabilities, Aging, and Independent Living or designee;

(G) the Commissioner of Financial Regulation or designee;

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

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

- (J) the Secretary of Education or designee;
  - (K) a representative, appointed by the Vermont Medical Society;
  - (L) a representative, appointed by the Vermont Association for Hospitals and Health Systems;
  - (M) a representative, appointed by Vermont Care Partners;
  - (N) a representative, appointed by the Vermont Association of Mental Health and Addiction Recovery;
  - (O) a representative, appointed by Bi-State Primary Care;
  - (P) a representative, appointed by the University of Vermont Medical School;
  - (Q) the Chief Executive Officer of OneCare Vermont or designee;
  - (R) the Health Care Advocate established pursuant to 18 V.S.A. § 9602;
  - (S) the Mental Health Care Ombudsman established pursuant to 18 V.S.A. § 7259;
  - (T) a representative, appointed by the insurance plan with the largest number of covered lives in Vermont;
  - (U) two persons who have received mental health services in Vermont, appointed by Vermont Psychiatric Survivors, including one person who has delivered peer services;
  - (V) one family member of a person who has received mental health services, appointed by the Vermont chapter of National Alliance on Mental Illness; and
  - (W) 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 every other month between October 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 six meetings annually. These payments shall be made from monies appropriated to the Department of Mental Health.

Sec. 5. BRATTLEBORO RETREAT; CONDITIONS OF STATE FUNDING

(a) Findings. In recognition of the significant need within Vermont's health care system for inpatient psychiatric capacity, the General Assembly has made significant investments in capital funds and in rate adjustments to assist the Brattleboro Retreat in its financial sustainability. The General Assembly has a significant interest in the quality of care provided at the Brattleboro Retreat, which provides 100 percent of the State's inpatient psychiatric care for children and youth, and more than half of the adult inpatient care, of which approximately 50 percent is paid for with State funding.

(b) Conditions. As a condition of further State funding, the General Assembly requires that the following quality oversight measures be implemented by the Brattleboro Retreat under the oversight of the Department of Mental Health:

(1) allow the existing mental health patient representative under contract with the Department pursuant to 18 V.S.A. § 7253(1)(J) to have full access to inpatient units to ensure that the mental health patient representative is available to individuals who are not in the custody of the Commissioner;

(2) in addition to existing policies regarding the provision of certificates of need for emergency involuntary procedures, provide to the Department deidentified certificates of need for emergency involuntary procedures used on individuals who are not in the custody of the Commissioner; and

(3) ensure that the mental health patient representative be a regular presenter at the Brattleboro Retreat's employee orientation programming.

(c)(1) Patient experience and quality of care. To support proactive, continuous quality and practice improvement and to ensure timely access to high-quality patient care, the Department and the Brattleboro Retreat shall:

(A) to the extent feasible by the Department, meet jointly each month with the mental health patient representative contracted pursuant to 18 V.S.A. § 7253(1)(J) and the mental health care ombudsman established pursuant to 18 V.S.A. § 7259 to review patient experiences of care; and

(B) identify clinical teams within the Department and the Brattleboro Retreat to meet monthly for discussions on quality issues, including service delivery, clinical practices, practice improvement and training, case review, admission and discharge coordination, and other patient care and safety topics.

(2) On or before February 1, 2021, the Department shall report to the House Committee on Health Care and to the Senate Committee on Health and Welfare regarding patient experiences and quality of care at the Brattleboro Retreat.

(d)(1) On or before October 1, 2020, as part of the reporting requirements of the Sustainability Report between the Agency of Human Services and the Brattleboro Retreat, the Agency and the Brattleboro Retreat shall submit an interim report to the Joint Fiscal Committee, and to the Chairs of the Senate Committee on Health and Welfare and the House Committee on Health Care describing the steps that the Brattleboro Retreat is taking to improve communication and relations with its employees.

(2) On or before February 1, 2021, as part of the reporting requirements of the Sustainability Report between the Agency of Human Services and the Brattleboro Retreat, the Agency and the Brattleboro Retreat shall submit a final report to the Senate Committee on Health and Welfare and to the House Committee on Health Care describing the steps that the Brattleboro Retreat is taking to improve communication and relations with its employees, the Brattleboro Retreat's assessment of the effectiveness of those efforts, and how the Brattleboro Retreat plans to manage future communications and relations with its employees.

\* \* \* VPharm Coverage Expansion \* \* \*

Sec. 6. 33 V.S.A. § 2073 is amended to read:

§ 2073. VPHARM ASSISTANCE PROGRAM

(a) ~~Effective January 1, 2006, the~~ The VPharm program is established as a State pharmaceutical assistance program to provide supplemental pharmaceutical coverage to Medicare beneficiaries. The supplemental coverage under subsection (c) of this section shall provide ~~only~~ the same pharmaceutical coverage as the Medicaid program to enrolled individuals whose income is not greater than ~~150~~ 225 percent of the federal poverty guidelines ~~and only coverage for maintenance drugs for enrolled individuals whose income is greater than 150 percent and no greater than 225 percent of the federal poverty guidelines.~~

(b) Any individual with income ~~no~~ not greater than 225 percent of the federal poverty guidelines participating in Medicare Part D, having secured the low income subsidy if the individual is eligible and meeting the general eligibility requirements established in section 2072 of this title, shall be eligible for VPharm.

\* \* \*

Sec. 7. SUPPLEMENTAL VPHARM COVERAGE; GLOBAL COMMITMENT WAIVER RENEWAL; RULEMAKING

(a) When Vermont next seeks changes to its Global Commitment to Health Section 1115 Medicaid demonstration waiver, the Agency of Human Services

shall request approval from the Centers for Medicare and Medicaid Services to include an expansion of the VPharm coverage for Vermont Medicare beneficiaries with income between 150 and 225 percent of the federal poverty level (FPL) to be the same as the pharmaceutical coverage under the Medicaid program.

(b) Within 30 days following approval of the VPharm coverage expansion by the Centers for Medicare and Medicaid Services, the Agency of Human Services shall commence the rulemaking process in accordance with 3 V.S.A. chapter 25 to amend its rules accordingly.

\* \* \* Prior Authorization \* \* \*

Sec. 8. 18 V.S.A. § 9418b is amended to read:

§ 9418b. PRIOR AUTHORIZATION

\* \* \*

(h)(1) A health plan shall review the list of medical procedures and medical tests for which it requires prior authorization at least annually and shall eliminate the prior authorization requirements for those procedures and tests for which such a requirement is no longer justified or for which requests are routinely approved with such frequency as to demonstrate that the prior authorization requirement does not promote health care quality or reduce health care spending to a degree sufficient to justify the administrative costs to the plan.

(2) A health plan shall attest to the Department of Financial Regulation and the Green Mountain Care Board annually on or before September 15 that it has completed the review and appropriate elimination of prior authorization requirements as required by subdivision (1) of this subsection.

Sec. 9. PRIOR AUTHORIZATION; ELECTRONIC HEALTH RECORDS;  
REPORT

On or before January 15, 2022, the Department of Financial Regulation, in consultation with health insurers and health care provider associations, shall report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Green Mountain Care Board opportunities to increase the use of real-time decision support tools embedded in electronic health records to complete prior authorization requests for imaging and pharmacy services, including options that minimize cost for both health care providers and health insurers.

Sec. 10. PRIOR AUTHORIZATION; ALL-PAYER ACO MODEL; REPORT

The Green Mountain Care Board, in consultation with the Department of Vermont Health Access, certified accountable care organizations, payers participating in the All-Payer ACO Model, health care providers, and other interested stakeholders, shall evaluate opportunities for and obstacles to aligning and reducing prior authorization requirements under the All-Payer ACO Model as an incentive to increase scale, as well as potential opportunities to waive additional Medicare administrative requirements in the future. On or before January 15, 2022, the Board shall submit the results of its evaluation to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance.

Sec. 11. PRIOR AUTHORIZATION; GOLD CARDING; PILOT PROGRAM; REPORTS

(a) On or before January 15, 2022, each health insurer with more than 1,000 covered lives in this State for major medical health insurance shall implement a pilot program that automatically exempts from or streamlines certain prior authorization requirements for a subset of participating health care providers, some of whom shall be primary care providers.

(b) Each insurer shall make available electronically, including on a publicly available website, details about its prior authorization exemption or streamlining program, including:

(1) the medical procedures or tests that are exempt from or have streamlined prior authorization requirements for providers who qualify for the program;

(2) the criteria for a health care provider to qualify for the program;

(3) the number of health care providers who are eligible for the program, including their specialties and the percentage who are primary care providers; and

(4) whom to contact for questions about the program or about determining a health care provider's eligibility for the program.

(c) On or before January 15, 2023, each health insurer required to implement a prior authorization pilot program under this section shall report to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Green Mountain Care Board:

(1) the results of the pilot program, including an analysis of the costs and savings;



(2) prospects for the health insurer continuing or expanding the program;

(3) feedback the health insurer received about the program from the health care provider community; and

(4) an assessment of the administrative costs to the health insurer of administering and implementing prior authorization requirements.

## Sec. 12. PRIOR AUTHORIZATION; PROVIDER EXEMPTIONS; REPORT

On or before September 30, 2021, the Department of Vermont Health Access shall provide findings and recommendations to the House Committee on Health Care, the Senate Committees on Health and Welfare and on Finance, and the Green Mountain Care Board regarding clinical prior authorization requirements in the Vermont Medicaid program, including:

(1) a description and evaluation of the outcomes of the prior authorization waiver pilot program for Medicaid beneficiaries attributed to the Vermont Medicaid Next Generation ACO Model;

(2)(A) for each service for which Vermont Medicaid requires prior authorization:

(i) the denial rate for prior authorization requests; and

(ii) the potential for harm in the absence of a prior authorization requirement;

(B) based on the information provided pursuant to subdivision (A) of this subdivision (2), the services for which the Department would consider:

(i) waiving the prior authorization requirement; and

(ii) exempting from prior authorization requirements those health care professionals whose prior authorization requests are routinely granted;

(3) the results of the Department's current efforts to engage with health care providers and Medicaid beneficiaries to determine the burdens and consequences of the Medicaid prior authorization requirements and the providers' and beneficiaries' recommendations for modifications to those requirements;

(4) the potential to implement systems that would streamline prior authorization processes for the services for which it would be appropriate, with a focus on reducing the burdens on providers, patients, and the Department;

(5) which State and federal approvals would be needed in order to make proposed changes to the Medicaid prior authorization requirements; and

(6) the potential for aligning prior authorization requirements across payers.

\* \* \* Extending Certain Act 91 Provisions Beyond State of Emergency \* \* \*

Sec. 13. 2020 Acts and Resolves No. 91 is amended to read:

\* \* \* Supporting Health Care and Human Service Provider Sustainability\* \* \*

Sec. 1. AGENCY OF HUMAN SERVICES; HEALTH CARE AND  
HUMAN SERVICE PROVIDER SUSTAINABILITY

~~During a declared state of emergency in Vermont as a result of COVID-19~~  
Through March 31, 2021, the Agency of Human Services shall consider  
~~waiving or~~ modifying existing rules, or adopting emergency rules, to protect  
access to health care services, long-term services and supports, and other  
human services under the Agency's jurisdiction. In ~~waiving,~~ modifying, or  
adopting rules, the Agency shall consider the importance of the financial  
viability of providers that rely on funding from the State, federal government,  
or Medicaid, or a combination of these, for a major portion of their revenue.

\* \* \*

\* \* \* Protections for Employees of Health Care Facilities and  
Human Service Providers \* \* \*

Sec. 3. PROTECTIONS FOR EMPLOYEES OF HEALTH CARE  
FACILITIES AND HUMAN SERVICE PROVIDERS

In order to protect employees of a health care facility or human service  
provider who are not licensed health care professionals from the risks  
associated with COVID-19, through March 31, 2021, all health care facilities  
and human service providers in Vermont, including hospitals, federally  
qualified health centers, rural health clinics, residential treatment programs,  
homeless shelters, home- and community-based service providers, and long-  
term care facilities, shall follow guidance from the Vermont Department of  
Health regarding measures to address employee safety, to the extent feasible.

\* \* \* Compliance Flexibility \* \* \*

Sec. 4. HEALTH CARE AND HUMAN SERVICE PROVIDER  
REGULATION; WAIVER OR VARIANCE PERMITTED

Notwithstanding any provision of the Agency of Human Services'  
administrative rules or standards to the contrary, ~~during a declared state of~~  
~~emergency in Vermont as a result of COVID-19~~ through March 31, 2021, the  
Secretary of Human Services may waive or permit variances from the  
following State rules and standards governing providers of health care services

and human services as necessary to prioritize and maximize direct patient care, support children and families who receive benefits and services through the Department for Children and Families, and allow for continuation of operations with a reduced workforce and with flexible staffing arrangements that are responsive to evolving needs, to the extent such waivers or variances are permitted under federal law:

- (1) Hospital Licensing Rule;
- (2) Hospital Reporting Rule;
- (3) Nursing Home Licensing and Operating Rule;
- (4) Home Health Agency Designation and Operation Regulations;
- (5) Residential Care Home Licensing Regulations;
- (6) Assisted Living Residence Licensing Regulations;
- (7) Home for the Terminally Ill Licensing Regulations;
- (8) Standards for Adult Day Services;
- (9) Therapeutic Community Residences Licensing Regulations;
- (10) Choices for Care High/Highest Manual;
- (11) Designated and Specialized Service Agency designation and provider rules;
- (12) Child Care Licensing Regulations;
- (13) Public Assistance Program Regulations;
- (14) Foster Care and Residential Program Regulations; and
- (15) other rules and standards for which the Agency of Human Services is the adopting authority under 3 V.S.A. chapter 25.

\* \* \*

#### Sec. 6. MEDICAID AND HEALTH INSURERS; PROVIDER ENROLLMENT AND CREDENTIALING

(a) ~~During~~ Until the last to terminate of a declared state of emergency in Vermont as a result of COVID-19, a declared federal public health emergency as a result of COVID-19, and a declared national emergency as a result of COVID-19, and to the extent permitted under federal law, the Department of Vermont Health Access shall relax provider enrollment requirements for the Medicaid program, and the Department of Financial Regulation shall direct health insurers to relax provider credentialing requirements for health insurance plans, in order to allow for individual health care providers to

deliver and be reimbursed for services provided across health care settings as needed to respond to Vermonters' evolving health care needs.

(b) In the event that another state of emergency is declared in Vermont as a result of COVID-19 after the termination of the State and federal emergencies, the Departments shall again cause the provider enrollment and credentialing requirements to be relaxed as set forth in subsection (a) of this section.

\* \* \*

\* \* \* Access to Health Care Services and Human Services \* \* \*

Sec. 8. ACCESS TO HEALTH CARE SERVICES; DEPARTMENT OF FINANCIAL REGULATION; EMERGENCY RULEMAKING

It is the intent of the General Assembly to increase Vermonters' access to medically necessary health care services during and after a declared state of emergency in Vermont as a result of COVID-19. ~~During such a declared state of emergency, the~~ Until July 1, 2021, and notwithstanding any provision of 3 V.S.A. § 844 to the contrary, the Department of Financial Regulation shall consider adopting, and shall have the authority to adopt, emergency rules to address the following ~~for the duration of the state of emergency through June 30, 2021:~~

(1) expanding health insurance coverage for, and waiving or limiting cost-sharing requirements directly related to, COVID-19 diagnosis, treatment, and prevention;

(2) modifying or suspending health insurance plan deductible requirements for all prescription drugs, except to the extent that such an action would disqualify a high-deductible health plan from eligibility for a health savings account pursuant to 26 U.S.C. § 223; and

(3) expanding patients' access to and providers' reimbursement for health care services, including preventive services, consultation services, and services to new patients, delivered remotely through telehealth, audio-only telephone, and brief telecommunication services.

Sec. 9. PRESCRIPTION DRUGS; MAINTENANCE MEDICATIONS; EARLY REFILLS

(a) As used in this section, "health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402. The term does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

~~(b) During a declared state of emergency in Vermont as a result of COVID-19~~ Through June 30, 2021, all health insurance plans and Vermont Medicaid

shall allow their members to refill prescriptions for chronic maintenance medications early to enable the members to maintain a 30-day supply of each prescribed maintenance medication at home.

(c) As used in this section, “maintenance medication” means a prescription drug taken on a regular basis over an extended period of time to treat a chronic or long-term condition. The term does not include a regulated drug, as defined in 18 V.S.A. § 4201.

Sec. 10. PHARMACISTS; CLINICAL PHARMACY; EXTENSION OF  
PRESCRIPTION FOR MAINTENANCE MEDICATION

(a) ~~During a declared state of emergency in Vermont as a result of COVID-19~~ Through June 30, 2021, a pharmacist may extend a previous prescription for a maintenance medication for which the patient has no refills remaining or for which the authorization for refills has recently expired if it is not feasible to obtain a new prescription or refill authorization from the prescriber.

(b) A pharmacist who extends a prescription for a maintenance medication pursuant to this section shall take all reasonable measures to notify the prescriber of the prescription extension in a timely manner.

(c) As used in this section, “maintenance medication” means a prescription drug taken on a regular basis over an extended period of time to treat a chronic or long-term condition. The term does not include a regulated drug, as defined in 18 V.S.A. § 4201.

Sec. 11. PHARMACISTS; CLINICAL PHARMACY; THERAPEUTIC  
SUBSTITUTION DUE TO LACK OF AVAILABILITY

(a) ~~During a declared state of emergency in Vermont as a result of COVID-19~~ Through March 31, 2021, a pharmacist may, with the informed consent of the patient, substitute an available drug or insulin product for an unavailable prescribed drug or insulin product in the same therapeutic class if the available drug or insulin product would, in the clinical judgment of the pharmacist, have substantially equivalent therapeutic effect even though it is not a therapeutic equivalent.

(b) As soon as reasonably possible after substituting a drug or insulin product pursuant to subsection (a) of this section, the pharmacist shall notify the prescribing clinician of the drug or insulin product, dose, and quantity actually dispensed to the patient.

Sec. 12. BUPRENORPHINE; PRESCRIPTION RENEWALS

~~During a declared state of emergency in Vermont as a result of COVID-19~~ Through March 31, 2021, to the extent permitted under federal law, a health

care professional authorized to prescribe buprenorphine for treatment of substance use disorder may authorize renewal of a patient's existing buprenorphine prescription without requiring an office visit.

Sec. 13. 24-HOUR FACILITIES AND PROGRAMS; BED-HOLD DAYS

~~During a declared state of emergency in Vermont as a result of COVID-19 Through March 31, 2021,~~ to the extent permitted under federal law, the Agency of Human Services may reimburse Medicaid-funded long-term care facilities and other programs providing 24-hour per day services for their bed-hold days.

\* \* \* Regulation of Professions \* \* \*

\* \* \*

Sec. 17. OFFICE OF PROFESSIONAL REGULATION; BOARD OF MEDICAL PRACTICE; OUT-OF-STATE HEALTH CARE PROFESSIONALS

(a) Notwithstanding any provision of Vermont's professional licensure statutes or rules to the contrary, ~~during a declared state of emergency in Vermont as a result of COVID-19 through March 31, 2021,~~ a health care professional, including a mental health professional, who holds a valid license, certificate, or registration to provide health care services in any other U.S. jurisdiction shall be deemed to be licensed, certified, or registered to provide health care services, including mental health services, to a patient located in Vermont using telehealth or as part of the staff of a licensed facility, provided the health care professional:

(1) is licensed, certified, or registered in good standing in the other U.S. jurisdiction or jurisdictions in which the health care professional holds a license, certificate, or registration;

(2) is not subject to any professional disciplinary proceedings in any other U.S. jurisdiction; and

(3) is not affirmatively barred from practice in Vermont for reasons of fraud or abuse, patient care, or public safety.

(b) A health care professional who plans to provide health care services in Vermont as part of the staff of a licensed facility shall submit or have submitted on the individual's behalf the individual's name, contact information, and the location or locations at which the individual will be practicing to:

(1) the Board of Medical Practice for medical doctors, physician assistants, and podiatrists; or

(2) the Office of Professional Regulation for all other health care professions.

(c) A health care professional who delivers health care services in Vermont pursuant to subsection (a) of this section shall be subject to the imputed jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable based on the health care professional's profession, in accordance with Sec. 19 of this act.

(d) This section shall remain in effect ~~until the termination of the declared state of emergency in Vermont as a result of COVID-19 and through March 31, 2021,~~ provided the health care professional remains licensed, certified, or registered in good standing.

Sec. 18. RETIRED HEALTH CARE PROFESSIONALS; BOARD OF  
MEDICAL PRACTICE; OFFICE OF PROFESSIONAL  
REGULATION

(a)(1) ~~During a declared state of emergency in Vermont as a result of COVID-19~~ Through March 31, 2021, a former health care professional, including a mental health professional, who retired not more than three years earlier with the individual's Vermont license, certificate, or registration in good standing may provide health care services, including mental health services, to a patient located in Vermont using telehealth or as part of the staff of a licensed facility after submitting, or having submitted on the individual's behalf, to the Board of Medical Practice or Office of Professional Regulation, as applicable, the individual's name, contact information, and the location or locations at which the individual will be practicing.

(2) A former health care professional who returns to the Vermont health care workforce pursuant to this subsection shall be subject to the regulatory jurisdiction of the Board of Medical Practice or the Office of Professional Regulation, as applicable.

(b) ~~During a declared state of emergency in Vermont as a result of COVID-19~~ Through March 31, 2021, the Board of Medical Practice and the Office of Professional Regulation may permit former health care professionals, including mental health professionals, who retired more than three but less than 10 years earlier with their Vermont license, certificate, or registration in good standing to return to the health care workforce on a temporary basis to provide health care services, including mental health services, to patients in Vermont. The Board of Medical Practice and Office of Professional Regulation may issue temporary licenses to these individuals at no charge and may impose limitations on the scope of practice of returning health care professionals as the Board or Office deems appropriate.

Sec. 19. OFFICE OF PROFESSIONAL REGULATION; BOARD OF  
MEDICAL PRACTICE; IMPUTED JURISDICTION

A practitioner of a profession or professional activity regulated by Title 26 of the Vermont Statutes Annotated who provides regulated professional services to a patient in the State of Vermont without holding a Vermont license, as may be authorized ~~in~~ during or after a declared state of emergency, is deemed to consent to, and shall be subject to, the regulatory and disciplinary jurisdiction of the Vermont regulatory agency or body having jurisdiction over the regulated profession or professional activity.

Sec. 20. OFFICE OF PROFESSIONAL REGULATION; BOARD OF  
MEDICAL PRACTICE; EMERGENCY AUTHORITY TO ACT  
FOR REGULATORY BOARDS

~~(a)(1) During a declared state of emergency in Vermont as a result of COVID-19~~ Through March 31, 2021, if the Director of Professional Regulation finds that a regulatory body attached to the Office of Professional Regulation by 3 V.S.A. § 122 cannot reasonably, safely, and expeditiously convene a quorum to transact business, the Director may exercise the full powers and authorities of that regulatory body, including disciplinary authority.

~~(2) During a declared state of emergency in Vermont as a result of COVID-19~~ Through March 31, 2021, if the Executive Director of the Board of Medical Practice finds that the Board cannot reasonably, safely, and expeditiously convene a quorum to transact business, the Executive Director may exercise the full powers and authorities of the Board, including disciplinary authority.

(b) The signature of the Director of the Office of Professional Regulation or of the Executive Director of the Board of Medical Practice shall have the same force and effect as a voted act of their respective boards.

(c)(1) A record of the actions of the Director of the Office of Professional Regulation taken pursuant to the authority granted by this section shall be published conspicuously on the website of the regulatory body on whose behalf the Director took the action.

(2) A record of the actions of the Executive Director of the Board of Medical Practice taken pursuant to the authority granted by this section shall be published conspicuously on the website of the Board of Medical Practice.



Sec. 21. OFFICE OF PROFESSIONAL REGULATION; BOARD OF  
MEDICAL PRACTICE; EMERGENCY REGULATORY  
ORDERS

~~During a declared state of emergency in Vermont as a result of COVID-19~~  
Through March 31, 2021, the Director of Professional Regulation and the  
Commissioner of Health may issue such orders governing regulated  
professional activities and practices as may be necessary to protect the public  
health, safety, and welfare. If the Director or Commissioner finds that a  
professional practice, act, offering, therapy, or procedure by persons licensed  
or required to be licensed by Title 26 of the Vermont Statutes Annotated is  
exploitative, deceptive, or detrimental to the public health, safety, or welfare,  
or a combination of these, the Director or Commissioner may issue an order to  
cease and desist from the applicable activity, which, after reasonable efforts to  
publicize or serve the order on the affected persons, shall be binding upon all  
persons licensed or required to be licensed by Title 26 of the Vermont Statutes  
Annotated, and a violation of the order shall subject the person or persons to  
professional discipline, may be a basis for injunction by the Superior Court,  
and shall be deemed a violation of 3 V.S.A. § 127.

\* \* \*

\* \* \* Telehealth \* \* \*

\* \* \*

Sec. 26. WAIVER OF CERTAIN TELEHEALTH REQUIREMENTS  
~~DURING STATE OF EMERGENCY FOR A LIMITED TIME~~

Notwithstanding any provision of 8 V.S.A. § 4100k or 18 V.S.A. § 9361 to  
the contrary, ~~during a declared state of emergency in Vermont as a result of~~  
~~COVID-19~~ through March 31, 2021, the following provisions related to the  
delivery of health care services through telemedicine or by store-and-forward  
means shall not be required, to the extent their waiver is permitted by federal  
law:

(1) delivering health care services, including dental services, using a  
connection that complies with the requirements of the Health Insurance  
Portability and Accountability Act of 1996, Pub. L. No. 104-191 in accordance  
with 8 V.S.A. § 4100k(i), as amended by this act, if it is not practicable to use  
such a connection under the circumstances;

(2) representing to a patient that the health care services, including  
dental services, will be delivered using a connection that complies with the  
requirements of the Health Insurance Portability and Accountability Act of

1996, Pub. L. No. 104-191 in accordance with 18 V.S.A. § 9361(c), if it is not practicable to use such a connection under the circumstances; and

(3) obtaining and documenting a patient's oral or written informed consent for the use of telemedicine or store-and-forward technology prior to delivering services to the patient in accordance with 18 V.S.A. § 9361(c), if obtaining or documenting such consent, or both, is not practicable under the circumstances.

\* \* \*

\* \* \* Effective Dates \* \* \*

#### Sec. 38. EFFECTIVE DATES

This act shall take effect on passage, except that:

(1) In Sec. 24, 8 V.S.A. § 4100k(e) (coverage of health care services delivered by store-and-forward means) shall take effect on January 1, 2021 May 1, 2020 for commercial health insurance and on July 1, 2020 for Vermont Medicaid.

\* \* \*

#### Sec. 14. OFFICE OF PROFESSIONAL REGULATION; TEMPORARY LICENSURE

Notwithstanding any provision of 3 V.S.A. § 129(a)(10) to the contrary, through March 31, 2021, a board or profession attached to the Office of Professional Regulation may issue a temporary license to an individual who is a graduate of an approved education program if the licensing examination required for the individual's profession is not reasonably available.

#### Sec. 15. BOARD OF MEDICAL PRACTICE; TEMPORARY PROVISIONS; PHYSICIANS, PHYSICIAN ASSISTANTS, AND PODIATRISTS

(a) Notwithstanding any provision of 26 V.S.A. § 1353(11) to the contrary, the Board of Medical Practice or its Executive Director may issue a temporary license through March 31, 2021 to an individual who is licensed to practice as a physician, physician assistant, or podiatrist in another jurisdiction, whose license is in good standing, and who is not subject to disciplinary proceedings in any other jurisdiction. The temporary license shall authorize the holder to practice in Vermont until a date not later than April 1, 2021, provided the licensee remains in good standing.

(b) Through March 31, 2021, the Board of Medical Practice or its Executive Director may waive supervision and scope of practice requirements

for physician assistants, including the requirement for documentation of the relationship between a physician assistant and a physician pursuant to 26 V.S.A. § 1735a. The Board or Executive Director may impose limitations or conditions when granting a waiver under this subsection.

\* \* \* Delivery of Health Care Services by Telehealth and Telephone \* \* \*

Sec. 16. COVERAGE FOR HEALTH CARE SERVICES DELIVERED BY TELEPHONE; WORKING GROUP

(a) The Department of Financial Regulation shall convene a working group to develop recommendations for health insurance and Medicaid coverage of health care services delivered by telephone after the COVID-19 state of emergency ends. The working group shall include representatives of the Department of Vermont Health Access, health insurers, the Vermont Medical Society, Bi-State Primary Care Association, the VNAs of Vermont, the Vermont Association of Hospitals and Health Systems, the Office of the Health Care Advocate, and other interested stakeholders.

(b) On or before December 1, 2020, the Department of Financial Regulation shall provide to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance the working group's recommendations for ongoing coverage of health care services delivered by telephone.

Sec. 17. TELEHEALTH; CONNECTIVITY; FUNDING OPPORTUNITIES

(a) The Vermont Program for Quality in Health Care, Inc., shall consult with its Statewide Telehealth Workgroup, the Department of Public Service, and organizations representing health care providers and health care consumers to identify:

(1) areas of the State that do not have access to broadband service and that are also medically underserved or have high concentrations of high-risk or vulnerable patients, or both, and where equitable access to telehealth services would result in improved patient outcomes or reduced health care costs, or both; and

(2) opportunities to use federal funds and funds from other sources to increase Vermonters' access to clinically appropriate telehealth services, including opportunities to maximize access to federal grants through strategic planning, coordination, and resource and information sharing.

(b) Based on the information obtained pursuant to subsection (a) of this section, the Vermont Program for Quality in Health Care, Inc., and the Department of Public Service, with input from organizations representing health care providers and health care consumers, shall support health care

providers' efforts to pursue available funding opportunities in order to increase Vermonters' access to clinically appropriate telehealth services via information dissemination and technical assistance to the extent feasible under the current billback funding mechanism under 18 V.S.A. § 9416(c).

(c) In coordinating and administering the efforts described in this section, the Vermont Program for Quality in Health Care, Inc. shall use federal funds to the greatest extent possible.

\* \* \* Effective Dates \* \* \*

#### Sec. 18. EFFECTIVE DATES

This act shall take effect on passage, except:

(1) Sec. 4 (Mental Health Integration Council; report) shall take effect on July 1, 2020;

(2) Sec. 6 (33 V.S.A. § 2073) shall take effect on the later of January 1, 2022 or upon approval of the VPharm coverage expansion by the Centers for Medicare and Medicaid Services;

(3) in Sec. 8, 18 V.S.A. § 9418b(h)(2) (attestation of prior authorization requirement review) shall take effect on July 1, 2021; and

(4) notwithstanding 1 V.S.A. § 214, in Sec. 14 (2020 Acts and Resolves No. 91), the amendment to Sec. 38 (effective date for store and forward) shall take effect on passage and shall apply retroactively to March 30, 2020.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for June 5, 2020, page 1127.)

#### **ORDERED TO LIE**

#### **S. 237.**

An act relating to promoting affordable housing.

**Pending Action:** Third Reading

#### **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)