

Senate Calendar

THURSDAY, JUNE 25, 2020

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

S. 37.

An act relating to medical monitoring.

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

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

S. 169.

An act relating to firearms procedures.

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

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

~~(2)(A)(i)~~ (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)

NEW BUSINESS

Third Reading

H. 954.

An act relating to miscellaneous tax provisions.

Amendment to Senate proposal of amendment to H. 954 to be offered by Senator Cummings before Third Reading

Senator Cummings moves to amend the Senate proposal of amendment 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.

Second Reading

Favorable with Proposal of Amendment

H. 688.

An act relating to addressing climate change.

Reported favorably with recommendation of proposal of amendment by Senator Bray 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)

NOTICE CALENDAR

Second Reading

Favorable

H. 552.

An act relating to the Vermont Environmental Protection Agency (EPA) Pollution Control Revolving Fund.

Reported favorably by Senator Bray for the Committee on Natural Resources and Energy.

(Committee vote: 4-0-1)

(For House amendments, see House Journal of March 10, 2020, pages 605-608.)

Reported favorably by Senator Nitka for the Committee on Appropriations.

(Committee vote: 6-0-1)

Favorable with Proposal of Amendment

H. 572.

An act relating to the Maternal Mortality Review Panel.

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

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

First: By inserting a new Sec. 2 after Sec. 1 to read as follows:

Sec. 2. 18 V.S.A. § 1554 is amended to read:

§ 1554. CONFIDENTIALITY

(a) The Panel's meetings are confidential and shall be exempt from the Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2. The Panel's proceedings, records, and opinions shall be confidential and shall not be subject to inspection or review under 1 V.S.A. chapter 5, subchapter 3 or to records produced or acquired by the Panel are exempt from public inspection and copying under the Public Records Act and shall be kept confidential. The records of the Panel are not subject to discovery, subpoena, or introduction into evidence in any civil or criminal proceeding; provided, however, that nothing in this subsection shall be construed to limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another source and entirely independent of the Panel's proceedings.

(b) Members of the Panel shall not be questioned in any civil or criminal proceeding regarding the information presented in or opinions formed as a result of a meeting of the Panel; provided, however, that nothing in this subsection shall be construed to prevent a member of the Panel from testifying to information obtained independently of the Panel or ~~which~~ that is public information.

And by renumbering the remaining sections to be numerically correct

Second: By striking out the newly renumbered Sec. 3, 18 V.S.A. § 1555, in its entirety and inserting a new Sec. 3 to read as follows:

Sec. 3. 18 V.S.A. § 1555 is amended to read:

§ 1555. INFORMATION RELATED TO MATERNAL MORTALITY

(a)(1) Health care providers; health care facilities; clinics; laboratories; medical records departments; and State offices, agencies, and departments

shall report all maternal mortality deaths to the Chair of the Maternal Mortality Review Panel and to the Commissioner of Health or designee.

(2) The Commissioner and the Chair may acquire the information described in subdivision (1) of this subsection from health care facilities, maternal mortality review programs, and other sources in other states to ensure that the Panel's records of Vermont maternal mortality cases are accurate and complete.

~~(b)(1) The Commissioner shall have access to individually identifiable information relating to the occurrence of maternal deaths only on a case-by-case basis where public health is at risk. As used in this section, "individually identifiable information" includes vital records; hospital discharge data; prenatal, fetal, pediatric, or infant medical records; hospital or clinic records; laboratory reports; records of fetal deaths or induced terminations of pregnancies; and autopsy reports. In any case under review by the Panel, upon written request of the Commissioner or designee, a person who possesses information or records that are necessary and relevant to the review of a maternal mortality shall, as soon as practicable, provide the Panel with the information and records. All requests for information or records by the Commissioner or designee related to a case under review shall be provided by the person possessing the information or records to the Panel at no cost.~~

(2) The Commissioner or designee may retain identifiable information regarding facilities where maternal deaths occur and geographic information on each case solely for the purposes of trending and analysis over time. In accordance with the rules adopted pursuant to subdivision 1556(4) of this title, all individually identifiable information on individuals and identifiable information on facilities shall be removed prior to any case review by the Panel.

(3) The Chair shall not acquire or retain any individually identifiable information.

(4) As used in this subsection, "individually identifiable information" includes vital records; hospital discharge data; prenatal, fetal, pediatric, or infant medical records; hospital or clinic records; laboratory reports; records of fetal deaths or induced terminations of pregnancies; and autopsy reports.

(c) If a root cause analysis of a maternal mortality event has been completed, the findings of such analysis shall be included in the records supplied to the review Panel.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for February 5, 2020, pages 244-247.)

Reported favorably by Senator Westman 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 Health and Welfare.

(Committee vote: 6-0-1)

H. 656.

An act relating to miscellaneous agricultural subjects.

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

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

* * * Commercial Feed * * *

Sec. 1. 6 V.S.A. § 324 is amended to read:

§ 324. REGISTRATION AND FEES

(a) No person shall manufacture a commercial feed in this State unless that person has first filed with the Vermont Agency of Agriculture, Food and Markets, in a form and manner to be prescribed by rules by the Secretary:

- (1) the name of the manufacturer;
- (2) the manufacturer's place of business;
- (3) the location of each manufacturing facility; and

(4) any other information ~~which~~ that the Secretary considers to be necessary.

(b) A person shall not distribute in this State a commercial feed that has not been registered pursuant to the provisions of this chapter. Application shall be in a form and manner to be prescribed by rule of the Secretary. The application for registration of a commercial feed shall be accompanied by a registration fee of \$105.00 per product. The registration fees, along with any surcharges collected under subsection (c) of this section, shall be deposited in the special fund created by subsection 364(e) of this title. Funds deposited in this account shall be restricted to implementing and administering the provisions of this title and any other provisions of the law relating to fertilizer, lime, or seeds. If the Secretary so requests, the application for registration shall be accompanied by a label or other printed matter describing the product.

(c) No person shall distribute in this State any feed required to be registered under this chapter upon which the Secretary has placed a withdrawal from distribution order because of nonregistration. A surcharge of \$10.00, in addition to the registration fee required by subsection (b) of this section, shall accompany the application for registration of each product upon which a withdrawal from distribution order has been placed for reason of nonregistration, and must be received before removal of the withdrawal from distribution order.

(d) No person shall distribute a commercial feed product in the State that is labeled as bait or feed for white-tailed deer.

* * * Livestock Management * * *

Sec. 2. 6 V.S.A. § 768 is amended to read:

§ 768. DUTIES OF DEALERS, TRANSPORTERS, AND PACKERS

A livestock dealer, transporter, or packer licensed under section 762 of this title shall:

(1) Maintain in a clean and sanitary condition all premises, buildings, and conveyances used in the business of buying, selling, or transporting livestock or operating a livestock auction or sales ring.

(2) Submit premises, buildings, and conveyances to inspection and livestock to inspection and test at any and such times as the Secretary may deem it necessary and advisable.

(3) Allow no livestock on livestock dealer's premises from herds or premises quarantined by the Secretary of Agriculture, Food and Markets.

(4)(A) Maintain, subject to inspection by the Secretary of Agriculture, Food and Markets or his or her agent, a record compliant with applicable State and federal statutes, rules, and regulations specified by the Secretary, including the U.S. Department of Agriculture Animal Disease Traceability rule, 9 C.F.R. Part 86. When not required under the requirements set forth in State and federal statute, the records required under this subdivision shall include:

(i) all livestock purchased, repossessed, sold, or loaned by a livestock dealer, transporter, or packer;

(ii) the complete name and address of the person from whom livestock was obtained and to whom delivered; and

(iii) the official individual identification number that is required to be applied to each livestock under the requirements of sections 1460, 1461, and 1461a of this title.

(B) For equine livestock, the requirements for the records to be maintained and the method of individual identification are set forth under chapter 102, subchapter 2 of this title.

(5) Abide by other reasonable rules that may be adopted by the Secretary of Agriculture, Food and Markets to prevent the spread of disease. A copy of all applicable rules shall be provided to all livestock dealers, packers, and transporters licensed under the terms of section 762 of this title at the time they first obtain a license.

(6) Pay the seller within 72 hours following the sale of the animal or animals.

Sec. 3. 6 V.S.A. § 1165 is amended to read:

§ 1165. TESTING OF CAPTIVE DEER

(a) Definitions. As used in this section:

(1) “Captive deer operation” means a place where deer are privately or publicly maintained, in an artificial manner, or held for economic or other purposes within a perimeter fence or confined space.

(2) “Chronic wasting disease” or “CWD” means a transmissible spongiform encephalopathy.

(b) Testing. A person operating a captive deer operation under the jurisdiction of the Secretary of Agriculture, Food and Markets shall inform the Secretary when a captive deer in his or her control dies or is sent to slaughter. The person operating the captive deer operation shall make the carcass of a deceased or slaughtered animal available to the Secretary for testing for CWD.

(c) Cost. ~~The cost of CWD testing required under this section shall be paid by the Secretary and shall not be assessed to the person operating the captive deer operation from which a tested captive deer originated assessed to the person operating the captive deer operation from which the tested captive deer originated.~~

Sec. 4. 6 V.S.A. § 1461a is amended to read:

§ 1461a. INTRASTATE MOVEMENT

(a) ~~The Secretary of Agriculture, Food and Markets shall require~~ Except as provided under subsection (b) of this section, all livestock being transported within the State ~~to shall~~ satisfy the requirements for official identification for interstate movement under the U.S. Department of Agriculture Animal Disease Traceability rule, 9 C.F.R. Part 86, including any future amendments to the

rule, prior to leaving the premises of origin, regardless of the reason for movement or duration of absence from the premises.

(b)(1) Livestock transported from the premises of origin for purposes of receiving veterinary care at a hospital in this State are exempt from the requirements of subsection (a) of this section, provided that the livestock are returned to the premises of origin immediately following the conclusion of veterinary care.

(2) The Secretary, by procedure, may waive the requirements of subsection (a) for certain types or categories of intrastate transport of livestock.

(c) Livestock and poultry that are transported to a commercial slaughter facility within the State shall not be removed from the facility without the facility's owner's first obtaining written permission from the State Veterinarian. For purposes of this section, arrival of the conveyance onto facility property and the offloading of livestock or poultry constitutes transport to a slaughter facility, regardless of whether the animals have been presented for antemortem inspection. The State Veterinarian may require inspection and testing prior to issuing consent for removal.

(d) Vermont-origin livestock and poultry that are transported to a slaughter facility outside this State shall not be removed from the facility and returned to Vermont without the facility's owner first obtaining written permission from the State Veterinarian. For purposes of this section, arrival of the conveyance onto facility property constitutes transport to a slaughter facility, regardless of whether the animals have been offloaded or presented for antemortem inspection. The State Veterinarian may require inspection and testing prior to issuing consent for removal.

(e) A person shall not transport out-of-state livestock or poultry into Vermont for slaughter or other purpose without written consent from the State Veterinarian if the livestock or poultry is classified as a suspect or a reactor by the U.S. Department of Agriculture or was exposed to livestock or poultry classified as a suspect or a reactor.

* * * Apiaries * * *

Sec. 5. 6 V.S.A. § 3023 is amended to read:

§ 3023. REGISTRATION; REPORT

(a) Registration. A person who is the owner of any bees, apiary, colony, or hive in the State shall register with the Secretary in writing on a form provided by the Secretary.

(b) Report. Annually the owner of any bees, apiary, colony, or hive registered under subsection (a) of this section shall submit a report to the Secretary that includes all of the following information:

(1) The location of all apiaries and number of colonies that the person owns. The location of an apiary shall become its registered location, provided that the apiary is located in accordance with the requirements of section 3034 of this title.

(2) Whether the location of any apiary will change within two weeks of the date that the report is submitted unless the change of location is to provide pollination services and the colonies will be returned to a registered apiary. Hives from a registered apiary may be moved to another registered apiary without reregistering.

(3) Whether a serious disease was discovered within any hive or colony in a registered apiary.

(4) Whether the owner transported into the State any colonies or used equipment, except as authorized under subsection 3032(c) of this title.

(5) Whether the owner is engaged in the rearing of queen bees or any other bees for sale, if applicable.

(6) A current varroa mite and pest mitigation plan for each registered apiary.

(c) Notification of Secretary. The owner of any bees, apiary, colony, or hive registered under subsection (a) of this section shall notify the Secretary as soon as practicable of the detection within an apiary or hive of American foulbrood disease or other disease designated by the Secretary.

Sec. 6. 6 V.S.A. § 3025 is amended to read:

§ 3025. SECOND INSPECTION OF DISEASED COLONIES;
DESTRUCTION

The Secretary or his or her inspectors shall inspect all diseased apiaries a second time no less than 10 days after the first inspection. If the existence of disease within the apiary has been confirmed by a ~~federal~~ laboratory approved by the Secretary, the inspector may destroy any colonies of bees if he or she finds them not cured of such disease, or not treated or handled according to his or her instructions, together with honey combs, hives, or other equipment, without recompense to the owner thereof. This section shall not preclude an inspector from destroying diseased colonies at any time with the consent of the owner or his or her agent.

Sec. 7. 6 V.S.A. § 3028 is amended to read:

§ 3028. TRAFFIC IN BEES; INSPECTION; CERTIFICATION

A person engaged in the rearing of bees for sale shall have his or her apiary inspected by the Secretary prior to sale at least ~~twice during~~ once each summer season and, if any disease is found which is injurious to bees, shall at once cease to ship bees from such diseased apiary until the Secretary declares, in writing, such apiary free from all such diseases, and whenever the Secretary shall find the apiary rearing bees for sale free from disease, he or she shall furnish the owner with a certificate to that effect.

Sec. 8. 6 V.S.A. § 3032 is amended to read:

§ 3032. TRANSPORTATION OF BEES OR USED EQUIPMENT INTO THE STATE

(a) Except as provided under subsections (c) and (d) of this section, bees, used equipment, or colonies shall not be brought into the State of Vermont unless approved by the Secretary by permit. The Secretary shall not approve the import of bees, used equipment, or colonies from out of state unless accompanied by a valid certificate of inspection within the previous 60 45 days from the state or country of origin stating that the bees, used equipment, or bee colonies are free from bee disease.

(b) Any person, other than a common carrier, who knowingly transports or causes to be transported used equipment or colonies to a point within this State shall provide the Secretary with a copy of the certificate of inspection not more than 72 hours after an approved import permit and certificate of inspection not less than 10 days prior to entry into this State.

(c) This section shall not apply to a shipment of bees, equipment, or colonies that originated outside the State and is destined for another point that is also located outside this State.

(d) The Secretary shall not require an import permit or a valid certificate of inspection under subsection (a) of this section for bees, used equipment, or colonies that:

- (1) are registered in Vermont;
- (2) were transported not more than 75 miles from the registered location of the owner of the bees or colonies; and
- (3) are imported back into the State within ~~90~~ 30 days of the date of original transport.

Sec. 9. 6 V.S.A. § 3033 is amended to read:

§ 3033. SHIPPING BEES OR EQUIPMENT INTO ANOTHER STATE OR COUNTRY; APPLICATION FOR INSPECTION; EXPENSES; CERTIFICATE

(a) If an owner wishes to ship bees or equipment into another state or country he or she may apply to the Secretary for an inspection for ~~serious~~ bee diseases likely to prevent the acceptance of the bees or beekeeping equipment in the state or country.

(b) Upon receipt of the application, or as soon thereafter as may be conveniently practicable, the Secretary shall comply with the request.

Sec. 10. 6 V.S.A. § 3034 is amended to read:

§ 3034. ESTABLISHING AN APIARY LOCATION

No person shall locate an apiary within two miles of an existing apiary registered to a different person, with the following exceptions:

(1) a person may locate an apiary anywhere on his or her own property;

(2) beekeepers with a total ownership of ten hives or less shall be exempt from this restriction;

(3) existing apiaries so long as they are properly registered with the State are exempt;

(4) a person may locate an apiary within two miles of another existing apiary provided the owner of the existing apiary gives written permission or the existing apiary has less than 15 hives; or

(5) if a registered apiary of 15 or more hives should fall below and remain below 15 hives, anyone can petition the State and establish an apiary within two miles of the existing apiary provided the number of hives in the existing apiary stays below 15 for two years from the time of the petition. An apiary that loses the protection of the two-mile limit in this manner cannot be built back above the number of hives it had at the end of the two-year period.

* * * Meat Inspection * * *

Sec. 11. 6 V.S.A. § 3302 is amended to read:

§ 3302. DEFINITIONS

As used in this chapter, except as otherwise specified, the following terms shall have the meanings stated below:

* * *

(21) “Livestock” means any cattle, sheep, swine, goats, ~~domestic rabbits,~~ horses, mules, or other equines, whether live or dead.

* * *

(24) “Meat food product” and “meat product” mean any product capable of use as human food ~~which~~ that is made wholly or in part from any meat or other portion of the carcass of any cattle, sheep, swine, ~~domestic rabbits,~~ or goats, excepting products ~~which~~ that are exempted from definition as a meat food product by the Secretary under conditions ~~which~~ that he or she may prescribe to assure that the meat or other portions of carcass contained in products are unadulterated and that products are not represented as meat food products. This term as applied to food products of equines shall have a meaning comparable to that provided in this subdivision with respect to cattle, sheep, swine, ~~domestic rabbits,~~ and goats.

* * *

* * * Agricultural Water Quality * * *

Sec. 12. 6 V.S.A. §§ 4831 and 4832 are added to read:

§ 4831. VERMONT SEEDING AND FILTER STRIP PROGRAM

(a) The Secretary of Agriculture, Food and Markets is authorized to develop a Vermont critical source area seeding and filter strip program in addition to the federal Conservation Reserve Enhancement Program in order to compensate farmers for establishing and maintaining harvestable perennial vegetative grassed waterways and filter strips on agricultural cropland perpendicular and adjacent to the surface waters of the State, including ditches. Eligible acreage would include annually tilled cropland or a portion of cropland currently cropped as hay that will not be rotated into an annual crop for a 10-year period of time. Acreage that is currently managed as hay shall have a prior history of rotation as corn or other annual commodity crop.

(b) Incentive payments from the Agency of Agriculture, Food and Markets shall be made at the outset of a 10-year agreement to establish or maintain the acreage as harvestable grassed waterway or filter strip.

(c) The Secretary of Agriculture, Food and Markets may establish by procedure financial and technical criteria for the implementation and operation of the Vermont critical source area seeding and filter strip program.

(d) Land enrolled in the Vermont agricultural buffer program shall be considered to be in “active use” as that term is defined in 32 V.S.A. § 3752(15).

§ 4832. FARM AGRONOMIC PRACTICES PROGRAM

(a) The Farm Agronomic Practices Assistance Program is created in the Agency of Agriculture, Food and Markets to provide the farms of Vermont with State financial assistance for the implementation of soil-based practices that improve soil quality and nutrient retention, increase crop production, minimize erosion potential, and reduce agricultural waste discharges. The following practices may be eligible for assistance to farms under the grant program:

(1) conservation crop rotation;

(2) cover cropping;

(3) strip cropping;

(4) cross-slope tillage;

(5) zone or no-tillage;

(6) pre-sidedress nitrate tests;

(7) annual maintenance of a nutrient management plan that is no longer receiving funding under a State or federal contract, provided the maximum assistance provided to a farmer under this subdivision shall be \$2,000.00 per year;

(8) educational and instructional activities to inform the farmers and citizens of Vermont of:

(A) the impact on Vermont waters of agricultural waste discharges;
and

(B) the federal and State requirements for controlling agricultural waste discharges;

(9) implementing alternative manure application techniques; and

(10) additional soil erosion reduction practices.

(b) Funding available under section 4827 of this title for nutrient management planning may be used to fund practices under this section.

Sec. 13. REPEALS

The following are repealed on July 1, 2020:

(1) 6 V.S.A. chapter 215, subchapter 6 (critical source area seeding and filter strip program); and

(2) 6 V.S.A. chapter 215, subchapter 7 (farm agronomic practices program).

Sec. 14. 6 V.S.A. § 4871(d) is amended to read:

(d) Rulemaking; small farm certification. ~~On or before July 1, 2016, the~~ The Secretary of Agriculture, Food and Markets shall ~~adopt~~ maintain by rule requirements for a small farm certification of compliance with the ~~required agricultural practices~~ Required Agricultural Practices. The rules required by this subsection shall be adopted as part of the ~~required agricultural practices~~ Required Agricultural Practices under section 4810 of this title.

Sec. 15. 6 V.S.A. § 4988 is amended to read:

§ 4988. CERTIFICATION OF CUSTOM APPLICATOR

(a) On or before July 1, 2016, as part of the revision of the ~~required agricultural practices~~ Required Agricultural Practices, the Secretary of Agriculture, Food and Markets shall adopt by rule a process by which a custom applicator shall be certified to operate within the State. The certification process shall require a custom applicator to complete eight hours of training over each five-year period regarding:

(1) application methods or techniques to minimize the runoff of land-applied manure or nutrients to waters of the State; and

(2) identification of weather or soil conditions that increase the risk of runoff of land-applied manure or nutrients to waters of the State.

* * *

(d) The requirements of this section shall not apply to:

(1) an owner or operator of a farm applying manure or nutrients to a field that he or she owns or controls, ~~provided that the owner or operator has completed the agricultural water quality training required under section 4981 of this title;~~ or

(2) application of manure or nutrients by a farm owner or operator on a field of another farm owner or operator when the total annual volume applied is less than 50 percent of the annual manure or agricultural waste by volume generated on the farm where the manure is spread, provided that the Secretary may approve the application of more than 50 percent of the annual manure generated on a farm by another farm operator when circumstances require and application of the manure would not pose a significant potential of discharge or runoff to State waters.

(e) The Secretary may require any person applying manure under subsection (d)(2) of this section to comply with the requirement for certification of a custom applicator.

Sec. 16. 6 V.S.A. § 4817 is added to read:

§ 4817. MANAGEMENT OF NON-SEWAGE WASTE

(a) As used in this section:

(1) “Non-sewage waste” means any waste other than sewage that may contain organisms pathogenic to human beings but does not mean stormwater runoff.

(2) “Sewage” means waste containing human fecal coliform and other potential pathogenic organisms from sanitary waste and used water from any building, including carriage water and shower and wash water. “Sewage” shall not mean stormwater runoff as that term is defined in 10 V.S.A. § 1264.

(b) The Secretary may require a person transporting or arranging for the transport of non-sewage waste to a farm for deposit in a manure pit or for use as an input in a methane digester to report to the Secretary one or more of the following:

(1) the composition of the material transported, including the source of the material; and

(2) the volume of the material transported.

(c) After receipt of a report required under subsection (a), the Secretary may prohibit the import of non-sewage waste onto a farm upon a determination that the import of the material would violate the nutrient management plan for the farm or otherwise present a threat to water quality.

* * * Agricultural Development * * *

Sec. 17. 9 V.S.A. § 2465a is amended to read:

§ 2465a. DEFINITION OF LOCAL, LOCAL TO VERMONT, AND
LOCALLY GROWN OR MADE IN VERMONT

(a) As used in this section:

(1) “Eggs” means eggs that are the product of laying birds, including: chickens, turkeys, ducks, geese, or quail, and that are in the shell.

(2) “Majority of ingredients” means more than 50 percent of all product ingredients by volume, excluding water.

(3) “Processed food” means any food other than a raw agricultural product and includes a raw agricultural product that has been subject to processing, such as canning, cooking, dehydrating, milling, or the addition of other ingredients. Processed food includes dairy, meat, maple products,

beverages, fruit, or vegetables that have been subject to processing, baked, or modified into a value-added or unique food product.

(4) “Raw agricultural product” means any food in its raw or natural state without added ingredients, including pasteurized or homogenized milk, maple sap or syrup, honey, meat, eggs, apple cider, and fruits or vegetables that may be washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

(5) “Substantial period of its life” means an animal that was harvested in Vermont and lived in Vermont for at least one third of its life or one year.

(6) “Unique food product” means food processed in Vermont from ingredients that are not regularly produced in Vermont or not available in sufficient quantities to meet production requirements.

(b) For the purposes of this chapter and rules adopted pursuant to subsection 2453(c) of this chapter, “local,” “local to Vermont,” “locally grown or made in Vermont,” and any substantially similar term shall mean that the goods being advertised originated within Vermont or 30 miles of the place where they are sold, measured directly, point to point, except that the term “local” may be used in conjunction with a specific geographic location, such as “local to New England,” or a specific mile radius, such as “local-within 100 miles,” as long as the specific geographic location or mile radius appears as prominently as the term “local,” and the representation of origin is accurate have the following meaning based on the type of food or food product:

(1) For products that are raw agricultural products, “local to Vermont” means the product:

(A) was exclusively grown or tapped in Vermont;

(B) is not milk and was derived from an animal that was raised for a substantial period of its lifetime in Vermont;

(C) is milk where a majority of the milk was produced from Vermont animals; or

(D) is honey produced by Vermont colonies located exclusively in Vermont when all nectar was collected.

(2) Except as provided in subdivision (3) of this subsection, for products that are processed foods, “local to Vermont” means:

(A) the majority of the ingredients are raw agricultural products that are local to Vermont; and

(B) the product meets one or both of the following criteria:

(i) the product was processed in Vermont; or

(ii) the headquarters of the company that manufactures the product is located in Vermont.

(3) For bakery products, beverages, or unique food products, the product meets two or more of the following criteria:

(A) the majority of the ingredients are raw agricultural products that are local to Vermont;

(B) substantial transformation of the ingredients in the product occurred in Vermont; or

(C) the headquarters of the company that manufactures the product is located in Vermont.

(c) For the purposes of this chapter and rules adopted pursuant to subsection 2453(c) of this chapter, when referring to products other than food, “local” and any substantially similar term shall mean that the goods being advertised originated within Vermont.

(d) For the purposes of this chapter and rules adopted under subsection 2453(c) of this title, “local,” “locally grown or made,” and substantially similar terms may be used in conjunction with a specific geographic location provided that the specific geographic location appears as prominently as the term “local” and the representation of origin is accurate. If a local representation refers to a specific city or town, the product shall have been grown or made in that city or town. If a local representation refers to a region with precisely defined political boundaries, the product shall have been grown or made within those boundaries. If a local representation refers to a region that is not precisely defined by political boundaries, then the region shall be prominently described when the representation is made, or the product shall have been grown or made within 30 miles of the point of sale, measured directly point to point.

(e) A person or company who sells or markets food or goods impacted by a change in this section shall have until January 1, 2021 to utilize existing product labels or packaging materials and to come into compliance with the requirements of this section.

* * * Weights and Measures * * *

Sec. 18. 9 V.S.A. § 2635 is amended to read:

§ 2635. GENERAL TESTING

(a) When not otherwise provided by law, the Secretary may inspect and test, to ascertain if they are correct, all weights and measures kept, offered, or exposed for sale. The Secretary shall, within a 12-month period, or more or less frequently as deemed necessary, inspect and test, to ascertain if they are correct, all weights and measures commercially used (1) in determining the weight, measurement, or count of commodities or things sold, or offered or exposed for sale, on the basis of weight, measure, or of count, or (2) in computing the basic charge or payment for services rendered on the basis of weight, measure, or of count. However, with respect to single-service devices—that is, devices designed to be used commercially only once and to be then discarded—and with respect to devices uniformly mass-produced, as by means of a mold or die, and not susceptible of individual adjustment, tests may be made on representative samples of those devices; and the lots of which those samples are representative shall be held to be correct or incorrect upon the basis of the results of the inspections and tests on those samples.

(b) Upon request by the Secretary, the owner or person responsible for a weighing or measuring device subject to the requirements of this chapter shall make the device available for inspection during that business's normal operating hours and shall provide reasonable assistance as determined by the Secretary to complete the inspection.

Sec. 19. 9 V.S.A. § 2770 is added to read:

§ 2770. ADMINISTRATIVE PENALTIES; LICENSE SUSPENSION

(a) In addition to other penalties provided by law, the Secretary may assess administrative penalties under 6 V.S.A. § 15 for each violation of this chapter. Each violation may be a separate and distinct offense, and, in the case of a continuing violation, each day's continuance thereof may be deemed a separate and distinct offense.

(b) After notice and opportunity for hearing, the Secretary may suspend or revoke a license issued under this chapter for any violation of this chapter.

* * * Vermont Agricultural Credit Program; Agritourism * * *

Sec. 20. 10 V.S.A. § 374b(8) is amended to read:

(8) "Farm operation" shall mean the cultivation of land or other uses of land for the production of food, fiber, horticultural, silvicultural, orchard, maple syrup, Christmas trees, forest products, or forest crops; the raising,

boarding, and training of equines, and the raising of livestock; or any combination of the foregoing activities. “Farm operation” also ~~includes~~ means the storage, preparation, retail sale, and transportation of agricultural or forest commodities accessory to the cultivation or use of such land. “Farm operation” also shall mean the operation of an agritourism business on a farm subject to regulation under the Required Agricultural Practices.

* * * Feral Swine * * *

Sec. 21. 10 V.S.A. § 4709 is amended to read:

§ 4709. TRANSPORT, IMPORTATION, POSSESSION, AND STOCKING OF WILD ANIMALS; POSSESSION OF WILD BOAR OR FERAL SWINE

(a) A person shall not bring into, transport into, transport within, transport through, or possess in the State any live wild bird or animal of any kind, including any manner of feral swine, without authorization from the Commissioner or his or her designee. The importation permit may be granted under such regulations therefor as the Commissioner shall prescribe and only after the Commissioner has made such investigation and inspection of the birds or animals as she or he may deem necessary. The Department may dispose of unlawfully possessed or imported wildlife as it may judge best, and the State may collect treble damages from the violator of this subsection for all expenses incurred.

(b) No person shall bring into the State from another country, state, or province wildlife illegally taken, transported, or possessed contrary to the laws governing the country, state, or province from which the wildlife originated.

(c) No person shall place a Vermont-issued tag on wildlife taken outside the State. No person shall report big game in Vermont when the wildlife is taken outside the State.

(d) Nothing in this section shall prohibit the Commissioner or duly authorized agents of the Department of Fish and Wildlife from bringing into the State for the purpose of planting, introducing, or stocking or from planting, introducing, or stocking in the State any wild bird or animal.

(e) Applicants shall pay a permit fee of \$100.00.

(f)(1) The Commissioner shall not issue a permit under this section for the importation or possession of the following live species, a hybrid or genetic variant of the following species, offspring of the following species, or offspring or a hybrid of a genetically engineered variant of the following species: feral swine, including wild boar, wild hog, wild swine, feral pig, feral

hog, ~~feral swine~~, old world swine, razorback, Eurasian wild boar, or Russian wild boar (*Sus scrofo* Linnaeus). A feral swine is:

(A) a domestic pig that is outside of an enclosure for more than 96 hours and is free roaming on public or private land;

(B) an animal that exhibits at least one of the following skeletal characteristics:

(i) skull characteristics of an elongated snout or sloping appearance with little or no stop at the eye line;

(ii) a shoulder structure with a steep or predominate ridge along the back appearance, known as a razorback;

(iii) hindquarters proportionally smaller than the forequarters lacking natural muscling found in commercial species; or

(iv) visible tusks; or

(C) an animal that is genetically determined to be a Eurasian wild boar or Eurasian wild boar-domestic pig hybrid as characterized with an appropriate genome-wide molecular tool.

(2) The definition of feral swine under subdivision (1) of this subsection shall not include feral swine collared and used by State or federal wildlife damage management entities, such as the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services, to determine the location of free-ranging feral swine.

(3) This subsection shall not apply to the domestic pig (*Sus domesticus*) involved in domestic hog production and shall not restrict or limit the authority of the Secretary of Agriculture, Food and Markets to regulate the importation or possession of the domestic pig as livestock or as a domestic animal under Title 6 of the Vermont Statutes Annotated. At the request of the owner of a domestic pig that is outside of its enclosure, the Secretary of Agriculture, Food and Markets may assist the owner in capturing and confining the domestic pig. In providing assistance to the owner of a domestic pig under this subdivision (f)(3), the Secretary of Agriculture, Food and Markets may request support or guidance from the U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

(4) Any feral swine may be removed or destroyed by the Department; the Agency of Agriculture, Food and Markets or a designee; or the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Wildlife Services. The Department shall notify the Agency of Agriculture,

Food and Markets prior to removal of or destruction of a feral swine as defined in subdivision (f)(1)(A) of this section.

(5) The Department shall notify the Agency of Agriculture, Food and Markets of the disposition of feral swine.

(6) Any person who kills a feral swine in Vermont shall report to a State game warden and shall present the carcass to the State game warden within 24 hours.

(7) The State or its designee shall not be liable for damages or claims associated with the removal or destruction of feral swine, provided that the actions of the State agents or designees are reasonable. The removal or destruction of feral swine shall be deemed reasonable where:

(A) the Department has acted in accordance with subdivision (4) of this subsection (f); and

(B) the Department determines that the swine:

(i) is a threat to public safety;

(ii) has harmed or posed a threat to any person or domestic animal;

(iii) has damaged private or public property; or

(iv) has damaged or is damaging natural resources, including wetlands; vernal pools; wildlife and their habitats; rare and irreplaceable natural areas; or rare, threatened, or endangered species; or

(v) the Department determines that the swine constitutes or could establish a breeding feral swine population in Vermont.

Sec. 22. 13 V.S.A. § 351b is amended to read:

§ 351b. SCOPE OF SUBCHAPTER

This subchapter shall not apply to:

(1) activities regulated by the Department of Fish and Wildlife pursuant to 10 V.S.A. Part 4, including the act of destroying feral swine in accordance with 10 V.S.A. § 4709(f);

(2) scientific research governed by accepted procedural standards subject to review by an institutional animal care and use committee;

(3) livestock and poultry husbandry practices for raising, management, and use of animals;

(4) veterinary medical or surgical procedures; and

(5) the killing of an animal as provided by 20 V.S.A. §§ 3809 and 3545.

Sec. 23. 20 V.S.A. § 3350 is added to read:

§ 3350. THE DISPOSITION OF FERAL SWINE

(a) The General Assembly finds that feral swine, as defined in 10 V.S.A. § 4709, have the potential for spreading serious disease to domestic livestock, may cause devastating destruction to natural ecosystems, and pose a threat to human health and safety.

(b) In light of the potential impacts of feral swine, and notwithstanding the provisions of law in this chapter, the Department of Fish and Wildlife may destroy or euthanize a feral swine in accordance with the requirements of 10 V.S.A. § 4709(f).

(c) The exercise by the Department of Fish and Wildlife of the authority under 10 V.S.A. § 4709(f) shall not prevent any person from pursuing or collecting the remedies set forth in this chapter.

* * * Payment for Ecosystem Services and Soil Health Working Group * * *

Sec. 24. 2019 Act and Resolves No. 83, Sec. 3 is amended to read:

Sec. 3. ~~SOIL CONSERVATION PRACTICE AND PAYMENT FOR ECOSYSTEM SERVICES AND SOIL HEALTH WORKING GROUP~~

~~(a) The Secretary of Agriculture, Food and Markets shall convene a Soil Conservation Practice and Payment for Ecosystem Services and Soil Health Working Group~~ is established to recommend financial incentives designed to encourage farmers in Vermont to implement agricultural practices that exceed the requirements of 6 V.S.A. chapter 215 and that improve soil health, enhance crop resilience, increase carbon storage and stormwater storage capacity, and reduce agricultural runoff to waters. The Working Group shall:

(1) identify agricultural standards or practices that farmers can implement that improve soil health, enhance crop resilience, increase carbon storage and stormwater storage capacity, and reduce agricultural runoff to waters;

(2) recommend existing financial incentives available to farmers that could be modified or amended to incentivize implementation of the agricultural standards identified under subdivision (1) of this subsection or incentivize the reclamation or preservation of wetlands and floodplains;

(3) propose new financial incentives, including a source of revenue, for implementation of the agricultural standards identified under subdivision (1) of

this subsection if existing financial incentives are inadequate or if the goal of implementation of the agricultural standards would be better served by a new financial incentive; and

(4) recommend legislative changes that may be required to implement any financial incentive recommended or proposed in the report.

(b) ~~The Soil Conservation Practice and~~ Payment for Ecosystem Services ~~and Soil Health~~ Working Group shall consist of persons with knowledge or expertise in agricultural water quality, soil health, economic development, or agricultural financing. The Secretary of Agriculture, Food and Markets shall appoint the members that are not ex officio members. The Working Group shall include the following members:

- (1) the Secretary of Agriculture, Food and Markets or designee;
- (2) the Secretary of Natural Resources or designee;
- (3) a representative of the Vermont Housing and Conservation Board;
- (4) a member of the former Dairy Water Collaborative;
- (5) two persons representing farmer's watershed alliances in the State;
- (6) a representative of the Natural Resources Conservation Council;
- (7) a representative of the Gund Institute for Environment of the University of Vermont;
- (8) a representative of the University of Vermont (UVM) Extension;
- (9) two members of the Agricultural Water Quality Partnership;
- (10) a representative of small-scale, diversified farming; ~~and~~
- (11) a member of the Vermont Healthy Soils Coalition;
- (12) a person engaged in farming other than dairy farming;
- (13) a representative of an environmental organization with a statewide membership that has technical expertise or fundraising experience;
- (14) an agricultural economist from a university or other relevant organization within the State;
- (15) an ecosystem services specialist from UVM Extension; and
- (16) a soil scientist.

(c)(1) The Secretary of Agriculture, Food and Markets or designee shall be the Chair of the Working Group, and the representative of the Vermont Housing and Conservation Board shall be the Vice Chair.

(2) A majority of the membership of the Working Group shall constitute a quorum.

(3) The Working Group shall have the administrative, technical, and legal assistance of the Agency of Agriculture, Food and Markets.

(4) The Working Group shall cease to exist on February 1, 2022.

(d) On or before January 15, ~~2020~~ 2022, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committee on Agriculture and the House Committee on Agriculture and Forestry a report ~~including the findings and recommendations of the Soil Conservation Practice and Payment for Ecosystem Services Working Group regarding financial incentives designed to encourage farmers in Vermont to implement agricultural practices that improve soil health, enhance crop resilience, and reduce agricultural runoff to waters that shall include:~~

(1) a recommended payment for ecosystem services approach the State should pursue that benefits water quality, flood resilience, and climate stability, including ecosystem services to prioritize and capital or funding sources available for payments;

(2) a recommended definition of healthy soils, a recommended method or systems for measuring soil health and other indicators of ecosystem health, and a recommended tool for modeling and monitoring soil health;

(3) a recommended price, supported by evidence or other justification, for a unit of soil health or other unit of ecosystem service or benefit provided;

(4) proposed eligibility criteria for persons participating in the program;

(5) proposed methods for incorporating the recommended payment for ecosystem services approach into existing research and funding programs;

(6) an estimate of the potential future benefits of the recommended payment for ecosystem services approach, including the projected duration of the program;

(7) an estimate of the cost to the State to administer the recommended payment for ecosystem services approach; and

(8) proposed funding or sources of funds to implement and operate the recommended payment for ecosystem services approach.

(e) The Working Group may seek grants or funding other than annual appropriation in order to further the work of the Working Group.

* * * Hemp 2020 Growing Season * * *

Sec. 25. 2020 HEMP GROWING SEASON

(a) The General Assembly finds that:

(1) The federal Agricultural Act of 2014, Pub. L. No. 113-79, Sec. 7606, codified at 7 U.S.C. § 5940, authorizes states subject to certain requirements to implement agricultural pilot programs for the growing, cultivation, and marketing of industrial hemp, notwithstanding restrictions under the federal Controlled Substances Act.

(2) In Section 10113 of the Agricultural Improvement Act of 2018, Pub. L. No. 115-334, codified at 7 U.S.C. §§ 1639 (o)–(s), Congress authorized the growing, cultivation, and marketing of industrial hemp under U.S. Department of Agriculture-approved state programs and not as agricultural pilot programs.

(3) The Agricultural Improvement Act of 2018, however, authorized states operating an agricultural pilot program for industrial hemp to continue operating the agricultural pilot program until October 31, 2020.

(4) Vermont operates an agricultural pilot program for industrial hemp, but 2019 Acts and Resolves No. 44 amended 6 V.S.A. chapter 34 to provide that the State Hemp Program shall operate under the Agricultural Improvement Act of 2018.

(5) Vermont’s State Hemp Program has not yet been federally approved for operation under the Agricultural Improvement Act of 2018.

(6) To clarify the authority and requirements for the cultivation and processing of industrial hemp during the 2020 growing season, the General Assembly should authorize hemp to be grown in the State under the terms and requirements of the State agricultural pilot program for hemp and not under the requirements of the Agricultural Improvement Act of 2018.

(b)(1) Notwithstanding the provisions of 6 V.S.A. chapter 34 that provide that Vermont shall operate the State Hemp Program under the Agricultural Improvement Act of 2018, the Secretary of Agriculture, Food and Markets may, during the 2020 growing season for hemp, continue to operate an agricultural pilot program for hemp as authorized by and in compliance with 7 U.S.C. § 5940.

(2) If the Secretary of Agriculture, Food and Markets operates an agricultural pilot program for hemp during the 2020 hemp growing season, the program shall not be subject to the terms of Section 10113 of the Agricultural Improvement Act of 2018, Pub. L. No. 115-334, and shall not be subject to

any provision of 6 V.S.A. chapter 34 that requires compliance with the Agricultural Improvement Act of 2018. Under an agricultural pilot program, a grower or processor of hemp during the 2020 growing season shall comply with the federal requirements for the cultivation and processing of hemp established by the Agricultural Act of 2014 as codified at 7 U.S.C. § 5940 until the 2020 crop is sold and is no longer in the possession of a grower or processor.

(c) Notwithstanding any provision of State law to the contrary and notwithstanding the scheduled repeal of 7 U.S.C. § 5940 on October 31, 2020, a person shall not be in violation of the requirements of 6 V.S.A. chapter 34 if he or she grows or cultivates hemp during the 2020 hemp season or markets hemp grown during the 2020 hemp season in compliance with the terms established by the federal Agricultural Act of 2014.

* * * Hemp Seed Program * * *

Sec. 26. 6 V.S.A. § 571 is added to read:

§ 571. HEMP SEED; LABELING; STANDARDS

(a) A person shall not sell, offer for sale, expose for sale, transport for sale, or distribute in the State hemp seed that:

(1) is not labeled in accordance with the requirements of this section or rules adopted by the Secretary;

(2) fails to meet germination standards, feminized seed claims, or other claims made on the label or in an advertisement or provides false or misleading information on a label or in an advertisement;

(3) fails to meet certification standards if standards have been adopted by the Secretary by rule; or

(4) consists of or contains prohibited noxious weed seeds, as that term is defined in section 641 of this title.

(b) Hemp seed sold, offered for sale, exposed for sale, transported for sale, or distributed in the State shall have a label attached to the bag or container in which the seed is sold, offered for sale, exposed for sale, transported for sale, or distributed. The label shall contain the following information:

(1) the name and kind of each hemp seed present in excess of five percent of the whole percentage by weight;

(2) the origin state or foreign country of the hemp seed;

(3) whether the hemp seed was certified by a state or foreign country;

- (4) the percentage by weight of any weed seeds in the container or bag;
- (5) the percentage by weight of inert matter in the container or bag;
- (6) the percentage of feminized seed;
- (7) the percentage of germination of the seed;
- (8) the date the seed was packed or packaged; and
- (9) the name and address of the person who labeled the hemp seed or who sells, offers for sale, exposes for sale, or distributes the hemp seed in the State.

(c) The Secretary may issue a stop sale order for the violation of the requirements of this section or rules adopted by the Secretary under this chapter. The sale, processing, and movement of any seed subject to a stop sale order is prohibited until the Secretary issues a release from the stop sale order.

(d) A violation of this section or rules adopted by the Secretary under this chapter shall be subject to an administrative penalty under section 569 of this title.

(e)(1) A person injured or damaged by a violation of this section or a rule adopted by the Secretary under this chapter regarding the sale, offer for sale, exposure for sale, transport for sale, or distribution of hemp seed in the State may bring an action for equitable relief or damages arising from the violation.

(2) The cause of action authorized under this section is in addition to any common law or statutory remedies otherwise available and does not amend or conflict with the powers and authority of the Agency of Agriculture, Food and Markets.

(f) The Secretary may conduct inspections and otherwise enforce requirements for the sale or distribution of hemp seed established under this chapter according to the Secretary's general authority to regulate seed under chapter 35 of this title, provided that the Secretary shall issue any penalty for the violation of the requirements of this chapter under the provisions of this chapter or rules adopted under this chapter.

Sec. 27. 6 V.S.A. § 566 is amended to read:

§ 566. RULEMAKING AUTHORITY

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

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

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

(3) require inspection and supervision of hemp during sowing, growing season, harvest, storage, and processing; ~~and~~

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

(5) establish certification requirements for hemp seed sold or distributed in the State; and

(6) require disclosure or labeling of the amount of cannabinoid known to be present in hemp seed sold or distributed in the State.

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

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

* * * Vermont Housing and Conservation Board * * *

Sec. 28. 10 V.S.A. § 321 is amended to read:

§ 321. GENERAL POWERS AND DUTIES

(a) The Board shall have all the powers necessary and convenient to carry out and effectuate the purposes and provisions of this chapter, including those general powers provided to a business corporation by Title 11A and those general powers provided to a nonprofit corporation by Title 11B and including, without limitation of the general powers under Titles 11A and 11B, the power to:

(1) upon application from an eligible applicant in a form prescribed by the Board, provide funding in the form of grants or loans for eligible activities;

(2) enter into cooperative agreements with private organizations or individuals or with any agency or instrumentality of the United States or of this State to carry out the purposes of this chapter;

(3) issue rules in accordance with 3 V.S.A. chapter 25 for the purpose of administering the provisions of this chapter; ~~and~~

(4) transfer funds to the Department of Housing and Community Development to carry out the purposes of this chapter;

(5) make and execute all legal documents necessary or convenient for the exercise of its powers and functions under this chapter, including legal documents that may be made and executed with the State or any of its agencies or instrumentalities, with the United States or any of its agencies or instrumentalities, or with private corporations or individuals;

(6) receive and accept grants from any source to be held, used, or applied or awarded to carry out the purposes of this chapter subject to the conditions upon which the grants, aid, or contributions may be made;

(7) make and publish rules and regulations respecting its housing programs and such other rules and regulations as are necessary to effectuate its corporate purposes; and

(8) do any and all things necessary or convenient to effectuate the purposes and provisions of this chapter and to carry out its purposes and exercise the powers given and granted in this chapter.

(b)(1) The Board shall seek out and fund nonprofit organizations and municipalities that can assist any region of the State that has high housing prices, high unemployment, ~~and~~ or low per capita incomes in obtaining grants and loans under this chapter for perpetually affordable housing.

(2) The Board shall administer the “HOME” affordable housing program ~~which~~ that was enacted under Title II of the Cranston-Gonzalez National Affordable Housing Act (Title II, P.L. 101-625, 42 U.S.C. 12701-12839). The State of Vermont, as a participating jurisdiction designated by Department of Housing and Urban Development, shall enter into a written memorandum of understanding with the Board, as subrecipient, authorizing the use of HOME funds for eligible activities in accordance with applicable federal law and regulations. HOME funds shall be used to implement and effectuate the policies and purposes of this chapter related to affordable housing. The memorandum of understanding shall include performance measures and results that the Board will annually report on to the Vermont Department of Housing and Community Development.

(c) On behalf of the State of Vermont, the Board shall be the exclusive designated entity to seek and administer federal affordable housing funds available from the Department of Housing and Urban Development under the national Housing Trust Fund ~~which~~ that was enacted under HR 3221, Division A, Title 1, Subtitle B, Section 1131 of the Housing and Economic Reform Act of 2008 (P.L. 110-289) to increase perpetually affordable rental housing and

home ownership for low and very low income families. The Board is also authorized to receive and administer federal funds or enter into cooperative agreements for a shared appreciation and/or community land trust demonstration program that increases perpetually affordable homeownership options for lower income Vermonters and promotes such options both within and outside Vermont.

(d) On behalf of the State of Vermont, the Board shall seek and administer federal farmland protection and forestland conservation funds to facilitate the acquisition of interests in land to protect and preserve in perpetuity important farmland for future agricultural use and forestland for future forestry use. Such funds shall be used to implement and effectuate the policies and purposes of this chapter. In seeking federal farmland protection and forestland conservation funds under this subsection, the Board shall seek to maximize State participation in the federal Wetlands Reserve Program and such other programs as is appropriate to allow for increased or additional implementation of conservation practices on farmland and forestland protected or preserved under this chapter.

(e) The Board shall inform all grant applicants and recipients of funds derived from the annual capital appropriations and State bonding act of the following: “The Vermont Housing and Conservation Trust Fund is funded by the taxpayers of the State of Vermont, at the direction of the General Assembly, through the annual Capital Appropriation and State Bonding Act.” An appropriate placard shall, if feasible, be displayed at the location of the proposed grant activity.

Sec. 29. 2017 Acts and Resolves No. 77, Sec. 12 is amended to read:

Sec. 12. ~~REPEALS~~ REPEAL

~~(a) 10 V.S.A. chapter 15, subchapter 4 (Rural Economic Development Initiative) shall be repealed on July 1, 2021; and~~

~~(b) 6 V.S.A. § 4828(d) (phosphorus removal grant criteria) shall be repealed on July 1, 2023.~~

Sec. 30. APPROPRIATIONS; VHCB; COVID-19 CONSULTING SERVICES FOR FARM AND FOOD BUSINESSES

In addition to funds appropriated in fiscal year 2021 to the Vermont Housing and Conservation Board (VHCB), \$192,000.00 is appropriated to VHCB from the Coronavirus Relief Fund to provide business, financial, and mental health assistance to farm and food businesses that suffered losses or expenses due to business interruptions caused by the COVID-19 public health emergency. Consulting services shall include information and assistance with

accessing federal and State COVID-19 relief funds, access to additional markets, diversification of income streams, access to mental health services, and other assistance farm and food businesses may require to address or recover from business interruption caused by the COVID-19 public health emergency.

* * * DFR Report on Milk Pricing * * *

Sec. 31. DEPARTMENT OF FINANCIAL REGULATION; OVERSIGHT
OF MILK PRICING IN VERMONT; REPORT; TASK FORCE

(a) Findings. The General Assembly finds that:

(1) The minimum pay price received by most dairy farmers in Vermont is regulated and established by the Federal Milk Market Order Program based on a complex formula, and under this formula, the regulated minimum price for Vermont dairy farms has been for many years set at an amount below the costs of production.

(2) Most dairy farmers in Vermont utilize the two remaining membership-based dairy cooperatives to sell their milk for market prices above the federally regulated minimum pay prices, and the cooperatives levy fees and other surcharges on their member dairy farmers to cover the marketing costs.

(3) Amidst radical market changes and an oversupply of milk, the dairy cooperatives recently have been unable to obtain pay prices for Vermont dairy farmers that are above the federally regulated minimum prices, and, as a result, the charges assessed to their members have often caused the net price that Vermont dairy farmers receive to fall below the regulated minimum prices and to amount to significantly less than the costs of production.

(4) Vermont dairy farms have suffered from combined regulatory and market failures, and 60 percent of the State's dairy farms subject to the federal regulatory program have closed since the year 2000.

(5) Before Vermont loses another substantial portion of its remaining dairy farming community, the State agency with expertise in financial regulation and rational market pricing should review the milk pricing system for dairy farmers in Vermont to collect and assess data on the long-term sustainability and fairness to the Vermont dairy farming community of the federal milk market order pricing system, current market conditions, and dairy cooperative operation.

(b) Report. On or before January 15, 2021, the Commissioner of Financial Regulation shall submit to the Senate Committees on Agriculture and on Economic Development, Housing and General Affairs and the House Committees on Agriculture and Forestry and on Commerce and Economic

Development an assessment of the long-term sustainability of Vermont dairy farming under the existing federal milk market order pricing system, current market conditions, and dairy cooperative operation. In developing the assessment, the Commissioner of Financial Regulation shall obtain from the Secretary of Agriculture, Food and Markets an accounting of payments made to milk producers under the federal milk market order. After consultation with the Secretary of Agriculture, Food and Markets, the Commissioner is authorized to utilize the Vermont Milk Commission's authority under 6 V.S.A. § 2936 to obtain information from milk handlers regarding the prices paid to purchase various forms of milk from Vermont producers; the costs of production, processing, transporting, distributing, and marketing milk; and any other information deemed necessary and relevant by the Commissioner. The Commissioner is also authorized to use the authority established under 6 V.S.A. § 2936, and the authority under 8 V.S.A. § 13, to assess the use and impact of payments made to milk producers. The report of the Commissioner of Financial Regulation shall include:

(1) an evaluation of the long-term sustainability of dairy farming in Vermont under the current regulatory and market conditions; and

(2) recommendations for revising regulated dairy pricing and other market regulation in the State to improve the future viability of Vermont dairy farming.

(c) Task force.

(1) After receipt of the report required under subsection (b) of this section, the Committee on Committees and the Speaker of the House shall appoint a joint committee of legislators and other experts to be known as the Task Force to Revitalize the Vermont Dairy Industry to develop legislation to implement the recommendations of the Commissioner of Financial Regulation.

(2) The Office of Legislative Council shall call the first meeting of the Task Force to occur not later than 45 days after receipt of the report required under subsection (b) of this section.

(3) The Task Force shall elect co-chairs from among its members at the first meeting.

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

(5) The Task Force shall submit draft legislation to the General Assembly on or before December 15, 2021.

(6) The Task Force shall cease to exist on March 1, 2022.

(7) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Task Force shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than 10 meetings. These payments shall be made from monies appropriated to the General Assembly.

(8) Other members of the Task Force that are not legislative members shall be entitled to both per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than 10 meetings. These payments shall be made from monies appropriated to the General Assembly.

* * * Forest Carbon Sequestration * * *

Sec. 32. DEPARTMENT OF FORESTS, PARKS, AND RECREATION;
TESTIMONY ON FOREST CARBON SEQUESTRATION IN
VERMONT

On or before January 15, 2021, the Commissioner of Forests, Parks, and Recreation (Commissioner), shall provide written and oral testimony to the Senate Committees on Agriculture and on Natural Resources and Energy and the House Committees on Agriculture and Forestry and on Natural Resources, Fish, and Wildlife regarding the status of forest sequestration projects and programs in the State. The testimony shall address:

(1) a summary of the education and outreach conducted by the Commissioner and other relevant parties for the public regarding forest sequestration, including information provided or available to the public regarding requirements for selling forest carbon credits, descriptions of the different markets and registries for carbon credits, procedures for establishing a forest carbon sequestration project on private land, and information describing the compatibility between forest carbon credits and State programs;

(2) the status of action by the Commissioner or other State entity in enrolling State land in a carbon market, and if State land has been enrolled in a carbon market, the basis and terms of the enrollment agreement;

(3) a summary of the efforts by the Commissioner to establish a partnership between the Agency of Natural Resources and one or more experienced private organizations to establish a statewide team to minimize the costs and maximize the benefits of enrolling public and private land into a carbon market; and

(4) a summary of the viability and health of carbon markets nationally and in the State and the economic feasibility and benefits to private and public landowners of entering carbon markets.

* * * Effective Dates * * *

Sec. 33. EFFECTIVE DATES

(a) This section, Sec. 17 (local food), Sec. 24 (payment for ecosystem services and Soil Health Working Group), Sec. 25 (2020 hemp growing season), Sec. 29 (repeal of REDI sunset), and Sec. 31 (DFR milk pricing report; task force) shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2020.

(Committee vote: 5-0-0)

(For House amendments, see House Journal for May 13, 2020, page 989-1013.)

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

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

(Committee vote: 6-0-1)

Amendment to the recommendation of amendment of the Committee on Agriculture to H. 656 to be offered by Senator Campion

Senator Campion moves to amend the recommendation of amendment of the Committee on Agriculture by inserting a new section to be numbered Sec. 32a to read as follows:

Sec. 32a. STUDY REGARDING HUMANE TREATMENT OF DAIRY ANIMALS

During the 2020 legislative interim, the Agency of Agriculture shall, in consultation with a range of stakeholders with expertise in the management of dairy animals, including organizations dedicated to promoting the welfare of animals, study the issue of humane treatment of dairy animals, and, on or before December 1, 2020, issue recommendations to the House and Senate Committees on Agriculture and the House and Senate Committees on Judiciary regarding appropriate requirements for the humane treatment of dairy animals, including:

(1) whether and how to restrict the use of tethers, tie-stalls, stanchion lockups, and continuous indoor confinement housing practices that limit natural activities such as lying down and standing up, fully extending limbs, moving about freely, exploratory behavior, and grooming;

(2) whether dairy animals should be provided with the opportunity for daily exercise or seasonally appropriate grazing, or both; and

(3) whether and how to impose requirements on flooring or bedding that would allow for normal lying and resting behavior and minimize detrimental effects on an animal's physical condition, such as susceptibility to disease, parasites, lameness, or mastitis.

H. 926.

An act relating to changes to Act 250.

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

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:

* * * Act 250 Downtown Exemption * * *

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

* * *

(27) "Mixed income housing" means a housing project in which the following apply:

(A) Owner-occupied housing. ~~At the option of the applicant, owner-occupied housing may be characterized by either of the following:~~

~~(i) at least 15 percent of the housing units have a purchase price that at the time of first sale does not exceed 85 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency; or~~

~~(ii) At the time of initial sale at least 20 percent of the housing units have a purchase price that at the time of first sale does not exceed 90 percent of the new construction, targeted area purchase price limits established and published annually by the Vermont Housing Finance Agency meet the requirements of affordable owner-occupied housing under subdivision (29)(A) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.~~

~~(B) Rental housing. At least 20 percent of the housing units that are rented constitute affordable housing and have a duration of affordability of For not less than 15 years following the date that rental housing is initially placed in service, at least 20 percent of the housing units meet the requirements of affordable rental housing under subdivision (29)(B) of this section, adjusted for the number of bedrooms, as established and published annually by the Vermont Housing Finance Agency.~~

* * *

(35) “Priority housing project” means a discrete project located on a single tract or multiple contiguous tracts of land that consists exclusively of:

(A) mixed income housing or mixed use, or any combination thereof, and is located entirely within a ~~designated downtown development district, designated new town center, or designated growth center, or designated village center that is also a designated neighborhood development area~~ under 24 V.S.A. chapter 76A; ~~or~~

(B) ~~mixed income housing and is located entirely within a designated Vermont neighborhood or designated neighborhood development area under 24 V.S.A. chapter 76A.~~

* * *

Sec. 2. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(o) If a designation pursuant to 24 V.S.A. chapter 76A is removed, subsection (a) of this section shall apply to any subsequent substantial change to a ~~priority housing project~~ development or subdivision that was originally exempt pursuant to subdivision 6001(3)(A)(iv)(I) of this title or subsection (p) of this section on the basis of that designation.

(p)(1) No permit or permit amendment is required for any subdivision, development, or change to a project that is located entirely within a downtown development district designated pursuant to 24 V.S.A. § 2793, ~~if the change consists exclusively of any combination of mixed use and mixed income housing, and the cumulative changes within any continuous period of five years, commencing on or after the effective date of this subsection, remain below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title or a neighborhood development area designated pursuant to 24 V.S.A. § 2793e. Existing permits in these areas may seek to be released from jurisdiction pursuant to subsection 6090(c) of this title.~~

(2) No permit or permit amendment is required for a priority housing project in a designated center other than a downtown development district if the project remains below any applicable jurisdictional threshold specified in subdivision 6001(3)(A)(iv)(I) of this title and will comply with all conditions of any existing permit or permit amendment issued under this chapter that applies to the tract or tracts on which the project will be located. If such a

priority housing project will not comply with one or more of these conditions, an application may be filed pursuant to section 6084 of this title.

* * *

~~(v) A permit or permit amendment shall not be required for a development or subdivision in a designated downtown development district for which the District Commission has issued positive findings and conclusions under section 6086b of this title on all the criteria listed in that section. A person shall obtain new or amended findings and conclusions from the District Commission under section 6086b of this title prior to commencement of a material change, as defined in the rules of the Board, to a development or subdivision for which the District Commission has issued such findings and conclusions. A person may seek a jurisdictional opinion under section 6007 of this title concerning whether such a change is a material change. [Repealed.]~~

* * *

Sec. 3. REPEALS

The following are repealed:

- (1) 10 V.S.A. § 6083a(d) (neighborhood development area fees).
- (2) 10 V.S.A. § 6086b (downtown development).

* * * Act 250 Release from Jurisdiction * * *

Sec. 4. 10 V.S.A. § 6090 is amended to read:

§ 6090. RECORDING; DURATION AND REVOCATION OF PERMITS

* * *

(c) Change to nonjurisdictional use; release from permit.

(1) On an application signed by each permittee, the District Commission may release land subject to a permit under this chapter from the obligations of that permit and the obligation to obtain amendments to the permit on finding each of the following:

(A) One of the following is true:

(i) the use of the land as of the date of the application is not the same as the use of the land that caused the obligation to obtain a permit under this chapter;

(ii) the municipality where the land is located has adopted permanent zoning and subdivision bylaws, but had not when the permit was issued; or

(iii) the land is located in a designated downtown or neighborhood development area that is exempt from this chapter.

(B) The use of the land as of the date of the application does not constitute development or subdivision as defined in section 6001 of this title and would not require a permit or permit amendment but for the fact that the land is already subject to a permit under this chapter.

(C) The permittee or permittees are in compliance with the permit and their obligations under this chapter.

(2) It shall be a condition of each affirmative decision under this subsection that a subsequent proposal of a development or subdivision on the land to which the decision applies shall be subject to this chapter as if the land had never previously received a permit under the chapter.

(3) An application for a decision under this subsection shall be made on a form prescribed by the Board. The form shall require evidence demonstrating that the application complies with subdivisions (1)(A) through (C) of this subsection. The application shall be processed in the manner described in section 6084 of this title and may be treated as a minor application under that section. In addition to those required to be notified under section 6084, the District Commission shall send notice at the same time to all other parties to the permit and to all current adjacent landowners.

(4) The District Commission shall evaluate the conditions in the existing permit and determine whether the permit conditions are still necessary to mitigate impacts under the criteria of subsection 6086(a). If the District Commission finds that the permit conditions are still necessary, it shall deny the application or approve the application on the condition that the necessary conditions are added to the land's municipal permit.

* * * Downtowns and Neighborhood Development Areas * * *

Sec. 5. 24 V.S.A. § 2792(a) is amended to read:

(a) A "Vermont Downtown Development Board," also referred to as the "State Board," is created to administer the provisions of this chapter. The State Board shall be composed of the following members or their designees:

* * *

(12) The executive director of the Vermont Housing and Conservation Board or designee.

Sec. 6. 24 V.S.A. § 2793 is amended to read:

§ 2793. DESIGNATION OF DOWNTOWN DEVELOPMENT DISTRICTS

* * *

(b) Within 45 days of receipt of a completed application, the State Board shall designate a downtown development district if the State Board finds in its written decision that the municipality has:

(1) Demonstrated a commitment to protect and enhance the historic character of the downtown through the adoption of a design review district, through the adoption of an historic district, or through the adoption of regulations that adequately regulate the physical form and scale of development that the State Board determines substantially meet the historic preservation requirements in subdivisions 4414(1)(E) and (F) of this title, ~~or through the creation of a development review board authorized to undertake local Act 250 reviews of municipal impacts pursuant to section 4420 of this title.~~

* * *

(4) A housing element in its plan in accordance with subdivision 4382(10) of this title that achieves the purposes of subdivision 4302(11) of this title and that includes clear implementation steps for achieving mixed income housing, including affordable housing, a timeline for implementation, responsibility for each implementation step, and potential funding sources.

(5) Adopted one of the following to promote the availability of affordable housing opportunities in the municipality:

(A) inclusionary zoning as provided in subdivision 4414(7) of this title;

(B) a restricted housing trust fund with designated revenue streams;

(C) a housing commission as provided in section 4433 of this title; or

(D) impact fee exemptions or reductions for affordable housing as provided in section 5205 of this title.

(c) A designation issued under this section shall be effective for eight years and may be renewed on application by the municipality. The State Board also shall review a community's designation four years after issuance or renewal and may review compliance with the designation requirements at more frequent intervals. Any community applying for renewal shall explain how the designation under this section has furthered the goals of the town plan and shall submit an approved town plan map that depicts the boundary of the

designated district. Beginning on July 1, 2022, any community under review or seeking renewal shall comply with subdivisions (b)(4) and (5) of this section. If at any time the State Board determines that the downtown development district no longer meets the standards for designation established in subsection (b) of this section, it may take any of the following actions:

- (1) require corrective action;
- (2) provide technical assistance through the Vermont Downtown Program;
- (3) limit eligibility for the benefits established in section 2794 of this chapter without affecting any of the district's previously awarded benefits; or
- (4) remove the district's designation without affecting any of the district's previously awarded benefits.

* * *

Sec. 7. 24 V.S.A. § 2793e is amended to read:

§ 2793e. NEIGHBORHOOD PLANNING AREAS; DESIGNATION OF
NEIGHBORHOOD DEVELOPMENT AREAS

* * *

(c) Application for designation of a neighborhood development area. The State Board shall approve a neighborhood development area if the application demonstrates and includes all of the following elements:

* * *

(5) The proposed neighborhood development area consists of those portions of the neighborhood planning area that are appropriate for new and infill housing, excluding identified flood hazard and fluvial erosion areas, except those areas containing preexisting development and areas suitable for infill development as defined in section 29-201 of the Vermont Flood Hazard Area and River Corridor Rule. In determining what areas are most suitable for new and infill housing, the municipality shall balance local goals for future land use, the availability of land for housing within the neighborhood planning area, and the smart growth principles. Based on those considerations, the municipality shall select an area for neighborhood development area designation that:

(A) Avoids or that minimizes to the extent feasible the inclusion of "important natural resources" as defined in subdivision 2791(14) of this title and flood hazard areas and river corridors. If an "important natural resource" is included within a proposed neighborhood development area, the applicant

shall identify the resource, explain why the resource was included, describe any anticipated disturbance to such resource, and describe why the disturbance cannot be avoided or minimized. If the neighborhood development area includes flood hazard areas or river corridors, the local bylaws must contain provisions consistent with the Agency of Natural Resources rules required under 10 V.S.A. § 754(a) to ensure that new infill development within a neighborhood development area occurs outside the floodway, new development is elevated or floodproofed at least two feet above Base Flood Elevation, or otherwise reasonably safe from flooding, and will not cause or contribute to fluvial erosion hazards within the river corridor. If the neighborhood development area includes flood hazard areas or river corridors, local bylaws shall also contain provisions to protect river corridors outside of the neighborhood development area consistent with the Agency of Natural Resources model river corridor bylaws.

(B) Is served by planned or existing transportation infrastructure that conforms with “complete streets” principles as described under 19 V.S.A. § 309d and establishes pedestrian access directly to the downtown, village center, or new town center.

(C) Is compatible with and will reinforce the character of adjacent National Register Historic Districts, National or State Register Historic Sites, and other significant cultural and natural resources identified by local or State government.

(6) The neighborhood development area is served by:

(A) municipal sewer infrastructure; or

(B) a community or alternative wastewater system approved by the Agency of Natural Resources.

(7) The municipal bylaws allow minimum net residential densities within the neighborhood development area greater than or equal to four single-family detached dwelling units per acre, exclusive of accessory dwelling units, or no fewer than the average existing density of the surrounding neighborhood, whichever is greater.

(A) The methodology for calculating density shall be established in the guidelines developed by the Department pursuant to subsection 2792(d) of this title.

~~(A)~~(B) Regulations that adequately regulate the physical form and scale of development may be used to demonstrate compliance with this requirement.

~~(B)(C)~~ Development in the neighborhood development areas that is lower than the minimum net residential density required by this subdivision (7) shall not qualify for the benefits stated in subsections (f) and (g) of this section. ~~The district coordinator shall determine whether development meets this minimum net residential density requirement in accordance with subsection (f) of this section.~~

(8) Local bylaws, regulations, and policies applicable to the neighborhood development area substantially conform with neighborhood design guidelines developed by the Department pursuant to section 2792 of this title. These policies shall:

(A) ensure that all investments contribute to a built environment that enhances the existing neighborhood character and supports pedestrian use;

(B) ensure sufficient residential density and building heights;

(C) minimize the required lot sizes, setbacks, and parking and street widths; and

(D) require conformance with “complete streets” principles as described under 19 V.S.A. § 309d, street and pedestrian connectivity, and street trees.

* * *

(12) A housing element in its plan in accordance with subdivision 4382(10) of this title that achieves the purposes of subdivision 4302(11) of this title and that includes clear implementation steps for achieving mixed income housing, including affordable housing, a timeline for implementation, responsibility for each implementation step, and potential funding sources.

(13) The application includes information in the proposed neighborhood development area that the municipality has adopted one of the following to promote the availability of affordable housing opportunities in the municipality:

(A) inclusionary zoning as provided in subdivision 4414(7) of this title;

(B) a restricted housing trust fund with designated revenue streams;

(C) a Housing Commission as provided in section 4433 of this title;
or

(D) impact fee exemptions or reductions for affordable housing as provided in section 5205 of this title.

* * *

(e) Length of designation. Initial designation of a neighborhood development area shall be reviewed concurrently with the next periodic review conducted of the underlying designated downtown, village center, new town center, or growth center.

* * *

(5) Beginning on July 1, 2022, any community under review or seeking renewal shall comply with subdivisions (c)(12) and (13) of this section.

(f) Neighborhood development area incentives for developers. Once a municipality has a designated neighborhood development area or has a Vermont neighborhood designation pursuant to section 2793d of this title, any a proposed development within that area shall be eligible for each of the benefits listed in this subsection. ~~These benefits shall accrue upon approval by the district coordinator, who shall review, provided that the project meets the density requirements set forth in subdivision (c)(7) of this section to determine benefit eligibility and issue a jurisdictional opinion under 10 V.S.A. chapter 151 on whether the density requirements are met, as determined by the administrative officer, as defined in chapter 117 of this title.~~ These benefits are:

(1) ~~The~~ the application fee limit for wastewater applications stated in 3 V.S.A. § 2822(j)(4)(D); and

(2) ~~The application fee reduction for residential development stated in 10 V.S.A. § 6083a(d).~~

~~(3) The~~ the exclusion from the land gains tax provided by 32 V.S.A. § 10002(p).

(g) Neighborhood development area incentives for municipalities. Once a municipality has a designated neighborhood development area, it may receive:

(1) priority consideration for municipal planning grant funds; and

(2) training and technical assistance from the Department to support an application for benefits from the Department.

(h) Alternative designation. If a municipality has completed all of the planning and assessment steps of this section but has not requested designation of a neighborhood development area, an owner of land within a neighborhood planning area may apply to the State Board for neighborhood development area designation status for a portion of land within the neighborhood planning area. The applicant shall have the responsibility to demonstrate that all of the requirements for a neighborhood development area designation have been satisfied and to notify the municipality that the applicant is seeking the

designation. The State Board shall provide the municipality with at least 14 days' prior written notice of the Board's meeting to consider the application, and the municipality shall submit to the State Board the municipality's response, if any, to the application before or during that meeting. On approval of a neighborhood development area designation under this subsection, the applicant ~~may proceed to obtain a jurisdictional opinion from the district coordinator under subsection (f) of this section in order to obtain~~ shall be eligible for the benefits granted to neighborhood development areas, subject to approval by the administrative officer, as provided in subsection (f) of this section.

* * * Designation Appeals * * *

Sec. 8. 24 V.S.A. § 2798 is amended to read:

§ 2798. DESIGNATION DECISIONS; ~~NONAPPEAL~~ APPEAL

(a) ~~The A person aggrieved by a designation decisions decision of the State Board under this chapter are not subject to appeal section 2793 or 2793e of this title may appeal to the Natural Resources Board established under 10 V.S.A. chapter 151 within 30 days of the decision.~~

(b) The Natural Resources Board shall conduct a de novo hearing on the decision under appeal and shall proceed in accordance with the contested case requirements of the Vermont Administrative Procedure Act. The Natural Resources Board shall issue a final decision within 90 days of the filing of the appeal. The provisions of 10 V.S.A. § 6024 regarding assistance to the Natural Resources Board from other departments and agencies of the State shall apply to appeals under this section.

Sec. 9. 10 V.S.A. § 6089 is amended to read:

§ 6089. APPEALS

(a) Appeals of any act or decision of a District Commission under this chapter or a district coordinator under subsection 6007(c) of this title shall be made to the Environmental Division in accordance with chapter 220 of this title. For the purpose of this section, a decision of the Chair of a District Commission under section 6001e of this title on whether action has been taken to circumvent the requirements of this chapter shall be considered an act or decision of the District Commission.

(b)(1) A determination by the Downtown Development Board designating a downtown development district or neighborhood development area pursuant to 24 V.S.A. chapter 76A is appealable to the Natural Resources Board.

(2) Procedure.

(A) An appeal under this subsection may be brought by any person aggrieved by the determination of the Downtown Development Board.

(B) A notice of appeal must be filed within 30 days of the determination by the Downtown Development Board.

(C) The Natural Resources Board shall conduct all appeals under this section as contested cases pursuant to 3 V.S.A. chapter 25 and procedural rules adopted by the Natural Resources Board.

* * * Municipal Response to Act 250 Requests * * *

Sec. 10. 10 V.S.A. 6086(g) is added to read:

(g) If a municipality fails to respond to a request by the applicant within 90 days as to the impacts related to subdivision (a)(6) or (7) of this section, the application will be presumed not to have an unreasonable burden on educational, municipal, or governmental services.

* * * Wastewater Connection Permits * * *

Sec. 11. 10 V.S.A. § 1972 is amended to read:

§ 1972. DEFINITIONS

~~For the purposes of~~ As used in this chapter:

* * *

(11) “Change in use” means converting to a different type of use, such as from a residence to a restaurant or office space or from a restaurant to a residence; change from seasonal to year-round use; or scaling up a use, such as increasing the number of employees or adding bedrooms. “Change of use” does not include the addition of a home occupation to a living unit.

(12) “Municipality” means a city, town, fire district, school district, consolidated water district, incorporated village, or unorganized town or gore.

(13) “Sanitary sewer service line” means piping and associated components that conveys wastewater from a building or structure or campground to a wastewater treatment facility, to an indirect discharge system, or to the leachfield of a soil-based wastewater system of less than 6,500 gallons per day. Sanitary sewer service lines also include piping that conveys wastewater from a building or structure or campground to a sanitary sewer collection line.

(14) “Water main” means water piping, such as a transmission main or distribution main, that is part of a public water system as defined in the

Agency of Natural Resources' Water Supply Rule. A water main includes piping leading to fire hydrants.

(15) "Water service line" means the piping that is not a water main and extends from the water main to a building or structure or campground.

Sec. 12. 10 V.S.A. § 1974(9) is added to read:

§ 1974. EXEMPTIONS

Notwithstanding any other requirements of this chapter, the following projects and actions are exempt:

* * *

(9) A person who receives an authorization from a municipality that administers a program registered with the Secretary pursuant to section 1983 of this title.

Sec. 13. 10 V.S.A. § 1983 is added to read:

§ 1983. REGISTRATION FOR MUNICIPAL WASTEWATER SYSTEM AND POTABLE WATER SUPPLY CONNECTIONS

(a) Notwithstanding the requirement under section 1976 of this title that the Secretary delegate to a municipality authority to approve a connection and notwithstanding the requirement under section 1973 of this title, a municipality may issue an approval for a connection or an existing connection with a change in use to the municipal sanitary sewer collection line by a sanitary sewer service line or a connection to a water main by a new water service line, provided that the municipality documents the following information in a form prescribed by the Secretary:

(1) The municipality owns or has legal control over connections to:

(A) a public community water system permitted pursuant to chapter 56 of this title; and

(B) a wastewater treatment facility permitted pursuant to chapter 47 of this title.

(2) The municipality shall only issue authorizations for:

(A) a sanitary sewer service line that connects to the sanitary sewer collection line that serves a single connection; and

(B) a water service line that connects to the water main that serves a single connection.

(3) The building or structure connects to both the sanitary sewer collection line and public community water system.

(4) The municipality issues approvals that comply with the technical standards for sanitary sewer service lines and water service lines adopted under the Agency of Natural Resources' Wastewater System and Potable Water Supply Rules.

(5) The municipality requires documentation in the land records of the municipality from a professional engineer or a licensed designer that the connection authorized by the municipality was installed in accordance with the technical standards.

(6) The municipality retains plans that show the location and design of authorized connections.

(b) The municipality shall notify the Secretary 30 days in advance of terminating any registration. The municipality shall provide all approvals and plans to the Secretary as a part of this termination notice.

(c) Upon request of the Secretary, a municipality approving a connection under this section shall provide copies of approvals of connection, connection plans, and any associated documentation.

Sec. 14. STUDY OF SUBDIVISION REGULATIONS IN AUTHORIZED MUNICIPALITIES

The Agency of Natural Resources' Wastewater and Potable Water Supply Technical Advisory Committee shall report to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy on whether municipalities authorized under 10 V.S.A. § 1983 should also have jurisdiction to issue wastewater and potable water supply permits instead of the Agency of Natural Resources for subdivisions when the lot is served by municipal water and sewer.

* * * Act 250 Criterion 1(D) * * *

Sec. 15. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

(6) "Floodway" means the channel of a watercourse which is expected to flood on an average of at least once every 100 years and the adjacent land areas which are required to carry and discharge the flood of the watercourse, as determined by the Secretary of Natural Resources with full consideration given to upstream impoundments and flood control projects "Flood hazard area" has the same meaning as under section 752 of this title.

~~(7) “Floodway fringe” means an area which is outside a floodway and is flooded with an average frequency of once or more in each 100 years as determined by the Secretary of Natural Resources with full consideration given to upstream impoundments and flood control projects “River corridor” has the same meaning as under section 752 of this title.~~

* * *

Sec. 16. 10 V.S.A. § 6086(a)(1)(D) is amended to read:

~~(D) Floodways~~ Flood hazard areas; river corridors. A permit will be granted whenever it is demonstrated by the applicant that, in addition to all other applicable criteria:

~~(i) the development or subdivision of lands within a floodway flood hazard area or river corridor will not restrict or divert the flow of flood waters, cause or contribute to fluvial erosion, and endanger the health, safety, and welfare of the public or of riparian owners during flooding; and~~

~~(ii) the development or subdivision of lands within a floodway fringe will not significantly increase the peak discharge of the river or stream within or downstream from the area of development and endanger the health, safety, or welfare of the public or riparian owners during flooding.~~

* * * Trails * * *

Sec. 17. 10 V.S.A. § 442(3) is amended to read:

(3) “Trails” means land used for hiking, walking, bicycling, cross-country skiing, snowmobiling, all-terrain vehicle riding, horseback riding, and other similar activities. Trails may be used for recreation, transportation, and other compatible purposes, but the primary purpose shall not be the operation of a motor vehicle. As used in this subdivision, “motor vehicle” shall not include all-terrain vehicles or snowmobiles.

Sec. 18. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

(38) “Recreational trail” has the same meaning as “trails” in subdivision 442(3) of this title.

(39) “Vermont trails system trail” means a recreational trail recognized by the Agency of Natural Resources pursuant to chapter 20 of this title. For purposes of this chapter, the construction, operation, and maintenance of a Vermont trails system trail shall be for a municipal, county, or State purpose.

Sec. 19. 10 V.S.A. § 6001(3)(A) is amended to read:

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

* * *

(xi) The construction of improvements for a Vermont trails system trail on a tract or tracts of land involving more than 10 acres.

(I) This subdivision (xi) shall be the exclusive mechanism for determining jurisdiction over a recreational trail that is a Vermont trails system trail and shall only apply to the construction of improvements made on or after July 1, 2020.

(II) For purposes of this subdivision (xi), involved land includes:

(aa) land that is physically altered, including any ground disturbance and clearing that will occur; and

(bb) infrastructure that is incidental to the operation of the trail, including restrooms, parking areas, shelters, picnic areas, kiosks, and interpretive and directional signage.

(III) For purposes of this subdivision (xi), involved land does not include land where no ground will be disturbed or cleared or any Vermont trails system trail constructed before July 1, 2020.

Sec. 20. 10 V.S.A. § 6001(3)(C) is amended to read:

(C) For the purposes of determining jurisdiction under subdivision (3)(A) of this section, the following shall apply:

* * *

(vi) Recreational trails. When jurisdiction over a trail has been established pursuant to subdivision (A) of this subdivision (3), jurisdiction shall extend only to the recreational trail and infrastructure that is incidental to the operation of the trail. Jurisdiction shall not extend to the remainder of a parcel or parcels where a recreational trail is located, unless otherwise determined to be jurisdictional pursuant to another provision of this chapter.

Sec. 21. 10 V.S.A. § 6081 is amended to read:

§ 6081. PERMITS REQUIRED; EXEMPTIONS

* * *

(y) No permit or permit amendment shall be required for the construction of improvements on a tract of land that would provide access across a recreational trail, provided that the access is not related to the use of the

permitted recreational trail and would not establish jurisdiction under this chapter on its own.

(z) Notwithstanding 1 V.S.A. §213 and § 214, and until January 1, 2022, no permit is required for a Vermont trails system trail recognized pursuant to chapter 20 of this title if the trail was in existence prior to July 1, 2020.

Sec. 22. RECREATIONAL TRAILS RECOMMENDATIONS AND REPORT

On or before December 15, 2020, the Agency of Natural Resources shall report to the House Committee on Natural Resources, Fish, and Wildlife and to the Senate Committee on Natural Resource and Energy with legislative recommendations for a best management practices driven program for Vermont trails system trails that is administered by the Agency of Natural Resources. The report shall include recommendations for revisions to 10 V.S.A. chapter 20, including revisions to mapping, legislative authority to administer the program, potential funding sources, staffing needs, and whether to include other recreational trails. The Agency of Natural Resources shall consult with stakeholders on the proposed program, including the Vermont Trail Alliance, the Forest Partnership, and the Vermont Agency of Transportation.

Sec. 23. PROSPECTIVE REPEAL

10 V.S.A. § 6001(3)(A)(xi) shall be repealed on January 1, 2022.

* * * Forest Blocks * * *

Sec. 24. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

(40) “Connecting habitat” means land or water, or both, that links patches of habitat within a landscape, allowing the movement, migration, and dispersal of wildlife and plants and the functioning of ecological processes. A connecting habitat may include recreational trails and improvements constructed for farming, logging, or forestry purposes.

(41) “Forest block” means a contiguous area of forest in any stage of succession and not currently developed for nonforest use. A forest block may include recreational trails, wetlands, or other natural features that do not themselves possess tree cover and improvements constructed for farming, logging, or forestry purposes.

(42) “Fragmentation” means the division or conversion of a forest block or connecting habitat by the separation of a parcel into two or more parcels; the construction, conversion, relocation, or enlargement of any building or other structure, or of any mining, excavation, or landfill; and any change in the use of any building or other structure, or land, or extension of use of land. However, fragmentation does not include the division or conversion of a forest block or connecting habitat by a recreational trail or by improvements constructed for farming, logging, or forestry purposes below the elevation of 2,500 feet.

(43) “Habitat” means the physical and biological environment in which a particular species of plant or wildlife lives.

Sec. 25. 10 V.S.A. § 6086(a)(8) is amended to read:

(8) Ecosystem protection; scenic beauty; historic sites.

(A) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.

(A)(B) Necessary wildlife habitat and endangered species. A permit will not be granted if it is demonstrated by any party opposing the applicant that a development or subdivision will destroy or significantly imperil necessary wildlife habitat or any endangered species; and

(i) the economic, social, cultural, recreational, or other benefit to the public from the development or subdivision will ~~not~~ outweigh the economic, environmental, or recreational loss to the public from the destruction or imperilment of the habitat or species; or

(ii) all feasible and reasonable means of preventing or lessening the destruction, diminution, or imperilment of the habitat or species have not been or will not continue to be applied; or

(iii) a reasonably acceptable alternative site is owned or controlled by the applicant ~~which~~ that would allow the development or subdivision to fulfill its intended purpose.

(C) Will not result in an undue adverse impact on forest blocks and connecting habitat. If a project as proposed would result in fragmentation, a permit may only be granted if effects are avoided, minimized, and mitigated in accordance with rules adopted by the Board.

Sec. 26. CRITERION 8(C) RULEMAKING

(a) The Natural Resources Board (Board), in consultation with the Agency of Natural Resources shall adopt rules to implement the requirements for the

administration of 10 V.S.A. § 6086(a)(8)(C). Rules adopted by the Board shall include:

(1) How forest blocks and connecting habitat are further defined, including their size, location, and function, which may include:

(A) information that will be available to the public to determine where forest blocks and connecting habitat are located; or

(B) advisory mapping resources, how they will be made available, how they will be used, and how they will be updated.

(2) Standards establishing how fragmentation of forest block or connecting habitat is avoided or minimized, which may include steps to promote proactive site design of buildings, roadways and driveways, utility location, and location relative to existing features such as roads, tree lines, and fence lines.

(3) Criteria to identify when a forest block or connecting habitat is eligible for mitigation.

(4) Standards for how impacts to a forest block or connecting habitat may be mitigated. Standards may include:

(A) appropriate ratios for compensation;

(B) appropriate forms of compensation such as conservation easements, fee interests in land, and other forms of compensation; and

(C) appropriate uses of on-site and off-site mitigation.

(b) The Board shall convene a working group to provide input to the rule prior to pre-filing with the Interagency Committee on Administrative Rules. The Board shall convene the working group on or before September 1, 2020.

(c) The Board shall file a final proposed rule with the Secretary of State and Legislative Committee on Administrative Rules on or before September 1, 2021.

Sec. 27. 10 V.S.A. § 127 is amended to read:

§ 127. RESOURCE MAPPING

(a) ~~On or before January 15, 2013, the~~ The Secretary of Natural Resources (the Secretary) shall complete and maintain resource mapping based on the Geographic Information System (GIS) or other technology. The mapping shall identify natural resources throughout the State, including forest blocks, that may be relevant to the consideration of energy projects and projects subject to chapter 151 of this title. The Center for Geographic Information

shall be available to provide assistance to the Secretary in carrying out the GIS-based resource mapping.

(b) The Secretary of ~~Natural Resources~~ shall consider the GIS-based resource maps developed under subsection (a) of this section when providing evidence and recommendations to the Public Utility Commission under 30 V.S.A. § 248(b)(5) and when commenting on or providing recommendations under chapter 151 of this title to District Commissions on other projects.

(c) The Secretary shall establish and maintain written procedures that include a process and science-based criteria for updating resource maps developed under subsection (a) of this section. Before establishing or revising these procedures, the Secretary shall provide opportunities for affected parties and the public to submit relevant information and recommendations.

* * * The Road Rule * * *

Sec. 28. 10 V.S.A. 6001(3)(A) is amended to read:

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

* * *

(x) The construction of a road or roads and any associated driveways to provide access to or within a tract of land of more than one acre owned or controlled by a person. For the purposes of determining jurisdiction under this subdivision, any new development or subdivision on a parcel of land that will be provided access by the road and associated driveways is land involved in the construction of the road. Jurisdiction under this subdivision shall not apply unless the length of the road and any associated driveways in combination is greater than 2,000 feet. As used in this subdivision, “roads” shall include any new road or improvement to a Class IV road by a private person, including roads that will be transferred to or maintained by a municipality after their construction or improvement. For the purposes of this subdivision, maintenance of a road shall not constitute “improvement.” For the purpose of determining the length of any road and associated driveways, the length of all other roads and driveways within the tract of land constructed within any continuous period of 10 years commencing after July 1, 2020 shall be included. This subdivision shall not apply to a State or municipal road, a utility corridor of an electric transmission or distribution company, a road used primarily for farming or forestry purposes, or a road in a designated downtown or neighbor development area. The conversion of a road used for farming or forestry purposes that also meets the requirements of this subdivision shall constitute development.

* * * Wood Products Manufacturers * * *

Sec. 29. 10 V.S.A. § 6001 is amended to read:

§ 6001. DEFINITIONS

* * *

(44) “Wood products manufacturer” means a manufacturer that aggregates wood products from forestry operations and adds value through processing or marketing in the wood products supply chain or directly to consumers through retail sales. “Wood products manufacturer” includes sawmills; veneer mills; pulp mills; pellet mills; producers of firewood, woodchips, mulch, and fuel wood; and log and pulp concentration yards. “Wood products manufacturer” does not include facilities that purchase, market, and resell finished goods, such as wood furniture, wood pellets, and milled lumber, without first receiving wood products from forestry operations.

(45) “Wood product” means logs, pulpwood, veneer wood, bolt wood, wood chips, stud wood, poles, pilings, biomass, fuel wood, maple sap, and bark.

Sec. 30. 10 V.S.A. § 6086(c) is amended to read:

(c)(1) A permit may contain such requirements and conditions as are allowable proper exercise of the police power and which are appropriate within the respect to subdivisions (a)(1) through (10) of this section, including those set forth in 24 V.S.A. §§ 4414(4), 4424(a)(2), 4414(1)(D)(i), 4463(b), and 4464, the dedication of lands for public use, and the filing of bonds to insure compliance. The requirements and conditions incorporated from Title 24 may be applied whether or not a local plan has been adopted. General requirements and conditions may be established by rule of the Natural Resources Board.

(2) Permit conditions on a wood products manufacturer.

(A) A permit condition that sets hours of operation for a wood products manufacturer shall only be imposed to mitigate an impact under subdivision (a)(1), (5), or (8) of this section.

(B) If an adverse impact under subdivisions (a)(1), (5), or (8) of this section would result, a permit with conditions shall allow the manufacturer to operate while mitigating these impacts. A permit with conditions that mitigate these impacts shall allow for deliveries of wood products from forestry operations to the manufacturer outside of permitted hours of operation, including nights, weekends, and holidays, for the number of days

demonstrated by the manufacturer as necessary to enable business operations, not to exceed 90 days per year.

(3) Permit with conditions on the delivery of wood heat fuels. A permit with conditions issued to a wood products manufacturer that produces wood chips, pellets, cord wood, or other fuel wood used for heat shall allow shipment of that fuel wood from the manufacturer to the end user outside permitted hours of operation, including nights, weekends, and holidays, from October 1 through April 30 of each year. Permits with conditions shall mitigate the undue adverse impacts while enabling the operations of the manufacturer.

(4) Wood products manufacturer holding a permit may request an amendment to existing permit conditions related to hours of operation and seasonal restrictions to be consistent with subdivisions (2) and (3) of this subsection. Requests for condition amendments under this subsection shall not be subject to Act 250 Rule 34(E).

* * * Fish and Wildlife Billback Authority * * *

Sec. 31. 10 V.S.A. 6094 is added to read:

§ 6094. ALLOCATION OF COSTS; DEPARTMENT OF FISH AND WILDLIFE

(a) Notwithstanding any other provision of law, the Department of Fish and Wildlife shall have the authority to bill the applicant for the costs of participating in any major permit application before a District Commission, including the costs of employee application review, submissions, comments, and testimony before a District Commission related to impacts on natural resources under subsection 6086(a) of this title, including on wildlife, necessary wildlife habitat, or connecting habitat. The Department may recover those costs from the applicant after notice to the applicant, including an estimate of the costs of the personnel or services.

(b) From time to time, the Department shall provide the applicant with detailed statements showing the amount of money contracted for or expended on personnel and services. All funds for services under this section shall be paid directly to the Department.

(c) An applicant to which costs are allocated under this section may petition the District Commission to review the costs allocated. The District Commission shall conduct a hearing to determine reasonableness of the costs. The District Commission shall consider the size and complexity of the project and may revise the cost allocations if determined unreasonable.

(d) District Commission decisions regarding the reasonableness of fees may be appealed, by the Department or the applicant, to the Natural Resources Board in accordance with rules adopted by the Board.

Sec. 32. 10 V.S.A. § 6027(h) is amended to read:

(h) The Natural Resources Board may hear appeals of fee refund requests under section 6083a of this title and of allocation of costs under section 6094.

* * * Effective Dates * * *

Sec. 33. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except that Sec. 25, 10 V.S.A. § 6086(a)(8), shall take effect on September 15, 2021.

(Committee vote: 3-2-0)

(For House amendments, see House Journal for February 28, 2020, pages 520-562.)

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.)

Reported favorably with recommendation of proposal of amendment by Senator Westman 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 Health and Welfare.

(Committee vote: 6-0-1)

House Proposal of Amendment

S. 349

An act relating to emergency funding for local government.

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. COVID-19 EXPENSE REIMBURSEMENT; LOCAL GOVERNMENT

(a) In fiscal year 2020, \$5,200,000.00 shall be appropriated from the Coronavirus Relief Fund to the Agency of Administration for the purpose of issuing grants to units of local government to reimburse eligible COVID-19 expenses incurred on or before December 30, 2020, including hazard pay, supplies and equipment, sanitation, facility alterations, overtime compensation, redirection of staff for first-response needs, and any other eligible COVID-19 expenses not covered by other funding sources, including funding provided by the Federal Emergency Management Agency. To be eligible for reimbursement under this section, COVID-19 expenses shall be consistent with the uses authorized in section 5001 of the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No.116–136 (the CARES Act), as may be amended, and any guidance or regulations issued pursuant to that section.

(b) The Secretary of Administration or designee shall develop grant guidelines for determining eligibility of COVID-19 expenses and requirements for reimbursement for units of local government. In determining the allocation of reimbursements under this section, the Secretary may prioritize

need, including the local unemployment rate and the percent of eligible COVID-19 expenses relative to the total budget.

(c) From the amount appropriated to the Agency of Administration under this section, the Secretary or designee shall allocate:

(1) \$4,850,000.00 in grants that shall not exceed \$200,000.00 per recipient for reimbursement of eligible COVID-19 expenses to the following:

(A) Vermont counties in amounts that shall not exceed \$1.00 per person as determined from the 2019 town census data published by the U.S. Census Bureau; and

(B) Vermont cities, towns, unorganized towns or gores, and any of the unified towns and gores of Essex County including those incurred by incorporated villages, fire districts, consolidated water districts created under 24 V.S.A. chapter 91, and consolidated sewer districts created under 24 V.S.A. chapter 105 therein. Grants allocated under this subdivision (c)(1)(B) shall not exceed \$20.00 per person as determined from the 2019 town census data published by the U.S. Census Bureau.

(2) \$200,000.00 to solid waste management districts organized under 24 V.S.A. chapter 121 in grants for reimbursement of eligible COVID-19 expenses. The Secretary or designee may determine any limitations to the amount of the grants allocated under this subdivision.

(3) An amount not to exceed \$150,000.00 may be used to contract with one or more regional planning commissions for technical assistance to be provided to units of local government in identifying and documenting eligible COVID-19 expenses. Notwithstanding any other contrary provision of law, the contract may be a sole source contract.

(4) In the event that applications for reimbursements exceed the amounts allocated, grants may be prorated and the Secretary or designee shall prioritize grants to municipalities with populations under 2,500.

(d) On or before September 15, 2020, the Secretary of Administration shall report to the Joint Fiscal Committee on program development and eligible COVID-19 expenses reimbursed pursuant to this section. The Secretary shall provide recommendations for any legislative action, including reallocation of funds for reimbursement of eligible local government COVID-19 expenses.

Sec. 2. DEFINITIONS

(1) "CARES Act" means the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No.116-136, as amended, and any guidance and regulations issued under that act.

(2) “Municipality” means a city, town, or incorporated village.

(3) “Eligible use” means a use of grant funds permitted under the CARES Act to assist a municipality in digitizing land records for online public access during municipal office closures due to the COVID-19 public health emergency.

Sec. 3. CORONAVIRUS MUNICIPAL RECORDS DIGITIZATION GRANTS; AGENCY OF ADMINISTRATION

(a) Authorization; appropriation. Of the funds available in the Coronavirus Relief Fund, the amount of \$5,000,000.00 is appropriated to the Agency of Administration to provide grants to eligible municipalities pursuant to this section.

(b) Requirements for grant applicants. A municipality may apply for a grant for an eligible use, provided that:

(1) The municipality was compelled to close its municipal offices or limit access to land records due to the COVID-19 public health emergency response.

(2) The municipality has established and maintained a Restoration and Preservation Reserve Fund pursuant to 32 V.S.A. § 1671.

(c) Grant amount; terms.

(1) The Agency shall establish a formula for determining the amount of grant awards, which shall include a maximum grant amount. The amount of each grant shall be sufficient to ensure that the preceding 40 years of a municipality’s land records may be digitized and made available to the public online.

(2) The Agency shall consider whether and by how much grant awards should be adjusted based on:

(A) whether a municipality has received financial assistance from other sources;

(B) the funds available for digitization in a municipality’s Restoration and Preservation Reserve Fund;

(C) the number of property transactions within a municipality based on property transfer tax data reported by the Department of Taxes; and

(D) whether a municipality closed or limited access to the municipal clerk’s offices during the COVID-19 public health emergency.

Sec. 4. GUIDELINES; REPORTING

(a) Guidelines. Not later than ten days after the effective date of this act, the Agency of Administration shall publish guidelines governing the implementation of the grant program, which at minimum shall establish:

(1) application and award procedures;

(2) standards for eligible uses of grant funds;

(3) standards governing the amount of grant awards to ensure:

(A) the equitable distribution of funds among regions of the State;
and

(B) that grants are based on need and will have a meaningful impact on the ability of the public to access digitized land records online;

(4) procedures to ensure that grant awards comply with the requirements of the CARES Act and that the State maintains adequate records to demonstrate compliance with the Act; and

(5) procedures to prevent, detect, and mitigate fraud, waste, error, and abuse.

(b) Consultation. Before publishing guidelines pursuant to subsection (a) of this section, the Agency shall consult with representatives of the Vermont League of Cities and Towns, the Vermont Municipal Clerks and Treasurers Association, and the Vermont Bar Association.

(c) Reporting. The Agency shall:

(1) provide weekly updates and information concerning grant guidelines, awards, and implementation to the committees of jurisdiction of the General Assembly; and

(2) submit a report to the General Assembly on or before August 15, 2020 detailing the implementation of this section, including specific information concerning the amount and identity of grant recipients, the amount of grant funds expended for eligible uses, and the progress made to expend the grant program funds by December 20, 2020, which shall be publicly available.

(d) In the event that the federal Department of the Treasury determines that an expenditure of funds made available from the CARES Act was not necessary or was otherwise impermissible under the Act, the Agency shall hold harmless any grant recipient that accepted grant funds in good faith reliance on the State concerning the municipality's application for, or use of, the grant award.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

House Proposal of Amendment to Senate Proposal of Amendment

H. 961

An act relating to making first quarter fiscal year 2021 appropriations for the support of State government, federal Coronavirus Relief Fund (CRF) appropriations, pay act appropriations, and other fiscal requirements for the first part of the fiscal year

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

By amending Sec. A.10(a) to read:

(a) Creation. There is created the Select Committee on the Future of Public Higher Education in Vermont (Committee) to assist the State of Vermont in addressing the urgent needs of the Vermont State Colleges (VSC) and develop an integrated vision and plan for a high-quality, affordable, and workforce-connected future for public higher education in the State.

In Sec. A.49, by striking subdivision (15) in its entirety and inserting in lieu thereof a new subdivision (15) to read as follows:

(15) Department of Disabilities, Aging, and Independent Living (DAIL): \$2,450,000 is appropriated to DAIL to provide financial stability grant funding to the 12 adult day providers statewide to continue to support the facilities, service infrastructure, and necessary operating costs for July 2020 through September 2020 as these programs remained closed due the COVID-19 crisis and prepare to reopen safely for the vulnerable populations they serve at the end of their closure period. Funds shall be distributed on or before July 20, 2020 to each program. The first distribution of funds shall be for costs submitted by the providers, and any remaining funds shall be distributed equitably among the 12 adult day programs to assist with other COVID-19 pandemic related financial losses. Medicaid retainer payments, less any State recoupment received by an adult day program for the month of July 2020, shall be deducted from that program's grant pursuant this section.

By adding Secs. B.1 through B.5 and their accompanying reader assistance heading to read as follows:

* * * Pay Act * * *

Sec. B.1. APPROVAL OF FISCAL YEAR 2021 COMPENSATION
INCREASES; CONSIDERATION OF FISCAL YEAR 2022
COMPENSATION INCREASES AT A LATER DATE

(a) Funding of fiscal year 2021 collective bargaining agreement provisions.

(1) This act funds in fiscal year 2021 the provisions of the collective bargaining agreements between the State and the Vermont State Employees' Association for the Defender General, Non-Management, Supervisory, and Corrections bargaining units; for the State's Attorneys' offices bargaining unit; and for the Judicial bargaining unit, and between the State and the Vermont Troopers' Association, that apply during the period of July 1, 2020 through June 30, 2021.

(2) These collective bargaining agreements provide during that fiscal year 2021 period an average 1.9 percent step increase and a \$1,400.00 one-time payment to individuals employed as of July 1, 2020.

(b) Other permitted fiscal year 2021 increases. In fiscal year 2021, the Executive, Judicial, and Legislative Branches may extend the fiscal year 2021 provisions of the collective bargaining agreements that are funded by this act to employees not covered by the bargaining agreements as they determine to be appropriate and in accordance with the appropriations provided to each branch.

(c) Fiscal year 2022. The General Assembly will consider any compensation increases for fiscal year 2022 at a later date.

Sec. B.2. FISCAL YEAR 2021 PAY ACT APPROPRIATIONS

(a) Executive Branch. In fiscal year 2021, the fiscal year 2021 provisions of the collective bargaining agreements between the State of Vermont and the Vermont State Employees' Association for the Defender General, Non-Management, Supervisory, and Corrections bargaining units, and, for the purpose of appropriation, the State's Attorneys' offices bargaining unit, for the period of July 1, 2020 through June 30, 2021; the collective bargaining agreement with the Vermont Troopers' Association, for the period of July 1, 2020 through June 30, 2021; and salary increases for employees in the Executive Branch not covered by the bargaining agreements shall be funded as follows:

(1) General Fund. The amount of \$11,553,795.00 is appropriated from the General Fund to the Secretary of Administration for distribution to departments to fund the fiscal year 2021 compensation increases permitted by this act.

(2) Transportation Fund. The amount of \$3,911,750.00 is appropriated from the Transportation Fund to the Secretary of Administration for distribution to the Agency of Transportation and the Department of Public Safety to fund the fiscal year 2021 compensation increases permitted by this act.

(3) Other funds. The Administration shall provide additional spending authority to departments through the existing process of excess receipts to fund the fiscal year 2021 compensation increases permitted by this act. The estimated amounts are \$12,809,440.00 from special fund, federal, and other sources.

(4) Transfers. With due regard to the possible availability of other funds, for fiscal year 2021, the Secretary of Administration may transfer from the various appropriations and various funds and from the receipts of the Liquor Control Board such sums as the Secretary may determine to be necessary to carry out the purposes of this act to the various agencies supported by State funds.

(b) Judicial Branch. In fiscal year 2021, the amount of \$872,330.00 is appropriated from the General Fund to the Judiciary to fund the fiscal year 2021 provisions of the collective bargaining agreement between the State of Vermont and the Vermont State Employees' Association for the Judicial bargaining unit for the period of July 1, 2020 through June 30, 2021 and salary increases for employees in the Judicial Branch not covered by the bargaining agreement.

(c) Legislative Branch. In fiscal year 2021, the amount of \$241,000.00 is appropriated from the General Fund to the Legislative Branch for the period of July 1, 2020 through June 30, 2021.

Sec. B.3. 32 V.S.A. § 1051 is amended to read:

§ 1051. SPEAKER OF THE HOUSE AND PRESIDENT PRO TEMPORE
OF THE SENATE; COMPENSATION AND EXPENSE
REIMBURSEMENT

(a) The Speaker of the House and the President Pro Tempore of the Senate shall be entitled to receive annual compensation of \$10,080.00 for the 2005 Biennial Session and thereafter, to be paid in biweekly payments, provided that, beginning on January 1, 2007, the annual compensation shall be adjusted annually thereafter by the cost of living adjustment negotiated for State employees under the most recent collective bargaining agreement, except that, beginning on July 1, 2021 and annually thereafter on January 1, the annual compensation shall be adjusted consistent with the compensation increases

provided to other constitutional officers. In addition to the annual compensation, the Speaker and President Pro Tempore shall be entitled to receive:

(1) \$652.00 a week for the 2005 Biennial Session and thereafter, to be paid in biweekly payments during the regular and adjourned sessions of the General Assembly; provided that, beginning on January 1, 2007, the weekly compensation shall be adjusted annually thereafter by the cost of living adjustment negotiated for State employees under the most recent collective bargaining agreement, except that, beginning on July 1, 2021 and annually thereafter on January 1, the weekly compensation shall be adjusted consistent with the compensation increases provided to other constitutional officers;

(2) an amount equal to one-fifth of the annually adjusted weekly compensation set forth in subdivision (1) of this subsection, rounded up to the nearest dollar, per day during a special session of the General Assembly; and

(3) mileage, meals, and lodging expenses as provided to members of the General Assembly under subsection 1052(b) of this title during the biennial, adjourned, and special sessions of the General Assembly and in addition such other actual and necessary expenses incurred while engaged in duties imposed by law.

* * *

Sec. B.4. 32 V.S.A. § 1052 is amended to read:

§ 1052. MEMBERS OF THE GENERAL ASSEMBLY; COMPENSATION
AND EXPENSE REIMBURSEMENT

(a)(1) Each member of the General Assembly, other than the Speaker of the House and the President Pro Tempore of the Senate, is entitled to a weekly salary of \$589.00 for the 2005 Biennial Session and thereafter; provided that, beginning on January 1, 2007, the weekly compensation shall be adjusted annually thereafter by the cost of living adjustment negotiated for State employees under the most recent collective bargaining agreement, except that, beginning on July 1, 2021 and annually thereafter on January 1, the weekly compensation shall be adjusted consistent with the compensation increases provided to other constitutional officers. The salary of members shall be paid in biweekly installments.

(2) During a special session, a member is entitled to an amount equal to one-fifth of the annually adjusted weekly compensation set forth in subdivision (1) of this subsection, rounded up to the nearest dollar, for each day of a special session on which the House of which he or she is a member shall sit.

* * *

Sec. B.5. EFFECTIVE DATES

(a) This section and Secs. B.1 and B.2 (authorized increases and appropriations) shall take effect on July 1, 2020.

(b) Secs. B.3 and B.4 (legislators; compensation adjusted consistent with other constitutional officers) shall take effect on July 1, 2021.

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)