

H.366

An act relating to 2021 technical corrections

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

Sec. 1. 2 V.S.A. § 601(c) is amended to read:

(c) The Office of Legislative Counsel and the Office of Legislative Operations shall provide legal, professional, and administrative assistance to the Committee.

Sec. 2. 2 V.S.A. § 651(e) is amended to read:

(e) The Committee shall have the assistance of the Office of Legislative Counsel and the Office of Legislative Operations.

Sec. 3. 2 V.S.A. § 637(a) is amended to read:

(a) A member of the General Assembly and a session employee of the General Assembly ~~or the Office of Legislative Counsel~~ shall be eligible to participate in any group dental insurance program negotiated in a collective bargaining agreement with State employees. Premiums shall be paid by the legislator or employee at the full actuarial rate with no contributions from the State and shall be deducted from compensation due for services rendered during the legislative session or assessed and paid directly by the legislator or employee.

Sec. 4. 3 V.S.A. § 921(a)(2)(A) is amended to read:

(A) At least 90 days prior to the expiration of a term or as soon as a vacancy is announced or created, request from both Vermont labor organizations and Vermont employer organizations, over which the Board has jurisdiction for dispute adjudication, and from organizations that train or employ persons to serve in a neutral role in labor management relations a list of nominees for each position that is to be filled. The Review Panel shall issue public notices of vacancies on the Board. An individual may apply for consideration as a nominee for a vacant Board position.

Sec. 5. 3 V.S.A. § 962(4) is amended to read:

(4) To refuse to bargain collectively with an employer, provided it is the representative of ~~his or her~~ the employer's employees subject to the provisions of subchapter 3 of this chapter.

Sec. 6. 7 V.S.A. § 656 is amended to read:

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

(a) Prohibited conduct; offense.

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

\* \* \*

(f)(4) Diversion Program requirements.

(1) Upon being contacted by a person who has been issued a notice of violation, the Diversion Program shall register the person in the Youth Substance Abuse Safety Program. Pursuant to the Youth Substance Abuse Safety Program, the Diversion Program shall impose conditions on the person. The conditions imposed shall include only conditions related to the offense and in every case shall include a condition requiring satisfactory completion of substance abuse screening using an evidence-based tool and, if deemed appropriate following the screening, substance abuse assessment and substance abuse education or substance abuse counseling, or both. If the screener recommends substance abuse counseling, the person shall choose a State-certified or State-licensed substance abuse counselor or substance abuse treatment provider to provide the services.

\* \* \*

Sec. 7. 8 V.S.A. § 4080(b)(5) is amended to read:

(5) Definition of “group insurance policy.” As used in this subsection, “group insurance policy” has the same meaning as “group health plan” and shall be subject to the same excepted benefits, in each case, as set forth in 45 C.F.R. § 146.145, as in effect as of December 31, 2017.

Sec. 8. 9 V.S.A. § 41b(a)(4) is amended to read:

(4) “Consumer” has the same meaning as in subsection 2451a(a) of this title.

Sec. 9. 9 V.S.A. § 42(a) is amended to read:

(a) Except for interest as ~~herein and hereinafter~~ provided in this chapter, a lender shall make no charges against a borrower for the use or forbearance of money other than:

\* \* \*

Sec. 10. 9 V.S.A. § 2286(c) is amended to read:

(c) Assets under this section do not include property that has been transferred, concealed, or removed with the intent to hinder, delay, or defraud creditors or that has been transferred in a manner making the transfer ~~voidable~~ voidable under this chapter.

Sec. 11. 9 V.S.A. § 2355(f)(2) is amended to read:

(2) The ~~above~~ items specified in subdivision (1) of this subsection need not be stated in the sequence or order set forth; additional items may be included but only to explain the calculations involved in determining the balance to be paid by the buyer as set forth ~~above~~ in this subsection. No other charges shall be made by the seller.

Sec. 12. 9 V.S.A. § 2401 is amended to read:

§ 2401. DEFINITIONS

~~For the purposes of this chapter only, unless the context otherwise requires~~

As used in this chapter:

(1) “Goods” means all tangible personal chattels when purchased primarily for personal, family, or household use and not for commercial, industrial, or agricultural use, but not including money, motor vehicles ~~as herein defined~~, things in action, or intangible personal property other than merchandise certificates or coupons as ~~herein~~ described in this subdivision. The term includes chattels that are furnished or used at the time of sale or subsequently in the modernization, rehabilitation, repair, alteration, improvement, or construction of real property as to become a part of the real property whether or not it is severable from it. The term also includes merchandise certificates or coupons, issued by a retailer seller, not redeemable in cash, and to be used in their face amount in lieu of cash.

\* \* \*

(6) “Retail installment transaction” or “transaction” means any transaction in which a retail buyer purchases goods or services ~~as defined herein~~ for a price consisting of the cash price and other amounts as limited by this chapter and agrees under a retail installment contract or retail charge agreement ~~as defined herein~~ to pay a part or all of the price in one or more

deferred installments. The term shall include every transaction ~~wherein~~ in which the promise or agreement to pay the deferred balance of the price is made by the retail buyer to the retail seller, notwithstanding the existence or occurrence of any one or more of the following events:

\* \* \*

(8) "Retail charge agreement" means an agreement other than a retail installment contract, ~~which~~ that prescribed the terms of retail installment transactions that may be made thereafter from time to time under it, under which the buyer's total unpaid balance ~~thereunder~~ under the agreement, whenever incurred, is payable in one or more deferred installments and under the terms of which the retail buyer pays a price that includes a charge as limited by section 2406 of this title, which charge is to be computed in relation to the buyer's unpaid balance from time to time.

\* \* \*

~~(19) Words of the masculine gender include the feminine and the neuter, and when the sense so indicates, words of the neuter gender may refer to any gender.~~

\* \* \*

Sec. 13. 9 V.S.A. § 2405(e) is amended to read:

(e) Retail installment contracts negotiated and entered into by mail without personal solicitation by ~~salesmen~~ salespersons or other representatives of the

seller and based upon a catalog of the seller or other printed solicitation of the business, if the catalog or other printed solicitation clearly sets forth the cash price and other terms of sales to be made through the medium, may be made as provided in this section. All provisions of this chapter applicable to retail installment contracts shall apply to those sales, except that the retail installment contract when completed by the buyer need not contain the items required in subsection (g) of this section. When the contract is received from the retail buyer, the seller shall forthwith prepare a written memorandum containing all the information required by subsection (g) of this section to be included in a retail installment contract. In lieu of delivering a copy of the contract to the buyer as provided in subsection (d) of this section, the seller shall deliver to the buyer a copy of such memorandum prior to the due date of the first installment under the contract.

Sec. 14. 9 V.S.A. § 2405(g)(2) is amended to read:

(2) The ~~above~~ items specified in subdivision (1) of this subsection need not be stated in the sequence or order set forth; additional items may be included, but only to explain the calculations involved in determining the balance to be paid by the buyer as set forth ~~above~~. No other charges shall be made by the seller.

Sec. 15. 9 V.S.A. § 2406 is amended to read:

§ 2406. RETAIL CHARGE AGREEMENTS

(a) Each retail charge agreement shall be in writing and signed by the buyer. A copy of any agreement executed on or after January 1, 1964 shall be delivered or mailed to the buyer by the seller before the date on which the first payment is due ~~thereunder~~ under the agreement. Any acknowledgment by the buyer of delivery of a copy of the agreement contained in the body thereof shall be in a size equal to at least 10-point bold face type and shall appear directly above the buyer's signature. No agreement executed on or after January 1, 1964 shall be signed by the buyer when it contains blank spaces to be filled in after it has been signed. The buyer's acknowledgment, conforming to the requirements of this subsection, of delivery of a copy of an agreement shall be presumptive proof in any action or proceeding of the delivery and that the agreement, when signed, did not contain any blank spaces ~~as herein provided~~. All retail charge agreements executed on or after January 1, 1964 shall state the maximum amount or rate of any charge referred to in subsection (c) to be charged and paid ~~thereunder~~ under the agreement. Any such agreement shall contain the following notice printed or typed in a size equal to at least 10-point bold type, which shall appear directly above the space provided for the buyer's signature:

“NOTICE TO THE BUYER—DO NOT SIGN THIS AGREEMENT  
IN BLANK. YOU ARE ENTITLED TO A COPY OF THE  
AGREEMENT AT THE TIME YOU SIGN. KEEP IT TO PROTECT  
YOUR LEGAL RIGHTS.”

(b)(1) The seller shall promptly supply the buyer under the retail charge agreement with a statement as of the end of each monthly period, which need not be a calendar month, or other regular period agreed upon in writing by the seller and buyer, in which there is any unpaid balance ~~thereunder~~ under the agreement, which statement shall recite the following:

(1)(A) the unpaid balance under the retail charge agreement at the beginning and at the end of the period;

(2)(B) unless otherwise furnished by the seller to the buyer by sales slip, memorandum, or otherwise, a description of the goods or services purchased during the period, the cash price, and the date of each purchase;

(3)(C) the payments made by the buyer to the seller and other credits to the buyer during the period;

(4)(D) the amount, if any, of any charge for the period made under subsection (c) of this section; and

(5)(E) that the buyer may at any time pay ~~his~~ the total balance or any part ~~thereof~~ of the total balance.

(2) The ~~above~~ items specified in subdivision (1) of this subsection need not be stated in the sequence or order set forth ~~above~~ in subdivision (1) of this subsection; additional items may be included, but only to explain the computations made in determining the amount to be paid by the buyer.

(c) A retail charge agreement may provide for, and the seller or holder may then, notwithstanding the provisions of any other law, charge, collect, and receive, in addition to the cash price, a charge for the privilege of making deferred payments ~~thereunder~~ under the agreement, which charge shall not exceed the rates authorized by subdivision 41a(b)(9) of this title. If the amount of the finance charge otherwise permitted ~~hereunder~~ shall be less than ~~fifty~~ 50 cents for any month or longer regular period, ~~fifty~~ 50 cents may nevertheless be charged, received, and collected. In addition, a retail charge agreement may provide for the payment of ~~any attorney's~~ reasonable ~~fee~~ attorney's fees where it is referred for collection to an attorney who is not a salaried employee of the holder of the retail charge agreement or any indebtedness ~~thereunder~~ under the agreement and of court costs and disbursements and also of actual and reasonable out-of-pocket expenses incurred in connection with the collection.

Sec. 16. 9 V.S.A. § 2451a is amended to read:

§ 2451a. DEFINITIONS

As used in this chapter:

~~(a)~~(1) “Consumer” means any person who purchases, leases, contracts for, or otherwise agrees to pay consideration for goods or services not for resale in the ordinary course of ~~his or her~~ the person’s trade or business but for ~~his or her~~ the person’s use or benefit or the use or benefit of a member of ~~his or her~~ the person’s household, or in connection with the operation of ~~his or her~~ the person’s household or a farm whether or not the farm is conducted as a trade or business, or a person who purchases, leases, contracts for, or otherwise agrees to pay consideration for goods or services not for resale in the ordinary course of ~~his or her~~ the person’s trade or business but for the use or benefit of ~~his or her~~ the person’s business or in connection with the operation of ~~his or her~~ the person’s business.

~~(b)~~(2) “Goods” or “services” shall include any objects, wares, goods, commodities, work, labor, intangibles, courses of instruction or training, securities, bonds, debentures, stocks, real estate, or other property or services of any kind. The term also includes bottled liquified petroleum (LP or propane) gas.

~~(c)~~(3) “Seller” means a person regularly and principally engaged in a business of selling goods or services to consumers.

~~(d)~~(4) “Home solicitation sale” means the sale or lease, or the offer for sale or lease, of goods or services with a purchase price of \$5.00 or more, whether under single or multiple contracts, where the sale, lease, or offer

thereof is either personally solicited or consummated by a seller at the residence or place of business or employment of the consumer, or at a seller's transient quarters, or solicited or consummated by a seller wholly or in part by telephone with a consumer at the residence or place of business or employment of the consumer. Transient quarters includes hotel or motel rooms, or any other place utilized as a temporary business location. The term "home solicitation sale" does not include a transaction:

~~(1)~~(A) Made pursuant to prior negotiations in the course of a visit by the consumer to a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis.

~~(2)~~(B) In which the consumer has initiated the contact and specifically requested the seller to visit ~~his or her~~ the consumer's home for the purpose of repairing or performing maintenance upon the consumer's personal property. If, in the course of such a visit, the seller sells the consumer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion.

~~(3)~~(C) Conducted and consummated entirely by mail and without any other contact between the consumer and the seller prior to delivery of the goods or performance of the services.

~~(4)~~(D) With a purchase price of under \$25.00 where the consumer is not required to sign any contract, receipt, sales ticket, evidence of indebtedness, or other writing, and the goods, services, or merchandise purchased are capable of delivery or performance at one time.

~~(5)~~(E) Pertaining to the sale or rental of real property, to the sale of insurance, to the sale of securities by a broker dealer registered with the Securities and Exchange Commission, or to the sale of commodities by any person registered with the Commodity Futures Trading Commission.

~~(6)~~(F) Where, in the case of goods, the buyer may at any time:

~~(A)~~(i)(I) cancel the order prior to delivery of the goods and receive a full refund for any monies paid;

~~(ii)~~(II) refuse to accept the goods when delivered, without incurring any obligation to pay for them and receive a full refund for any monies paid; or

~~(iii)~~(III) return the goods to the seller and receive a full refund for any monies paid;

~~(B)~~(ii) the buyer's right to cancel the order or return the goods without obligation or charge at any time and receive a full refund for any monies paid is clearly and unmistakably set forth on the face or reverse side of the sales ticket; and

~~(C)~~(iii) the goods or merchandise purchased under an agreement meeting the requirements specified in subdivisions ~~(A)~~(i) and ~~(B)~~(ii) of this subdivision ~~(6)~~(F) are capable of delivery at one time.

~~(7)~~(G) Solicited or consummated wholly or in part by telephone where the seller offers a full refund and right of cancellation for at least ten days after receipt of the goods or services, and a full refund within 30 days of return of the goods or cancellation of the services or under terms no more restrictive than those set forth in subsections 2454(a), (c), and (d) of this title, and the right of refund and cancellation is conspicuously disclosed with the goods or services.

~~(8)~~(H) Solicited or consummated wholly or in part by a federally insured depository institution or its subsidiary, affiliate, or parent organizations, or by a public utility regulated by the Federal Communications Commission or the Vermont Public Utility Commission.

~~(9)~~(I) In response to an order placed by a farmer for farm-related goods or services, whether in person, by telephone, or otherwise, and the farmer has a preexisting open end credit plan with the seller.

~~(e)~~(5) “Business day” means any calendar day except Saturday, Sunday, or any day classified as a holiday under 1 V.S.A. § 371.

~~(f)~~(6) “Purchase price” means the total price paid or to be paid for the consumer goods or services, including all interest and service charges.

~~(g)~~(7) “Lessor” means a person engaged in a business of leasing goods to consumers.

~~(h)~~(8) “Collusion” means an agreement, contract, combination in the form of trusts or otherwise, or conspiracy to engage in price fixing, bid rigging, or market division or allocation of goods or services between or among persons.

Sec. 17. 9 V.S.A. § 2453a(c) is amended to read:

(c) It is the intent of the General Assembly that in construing this section and ~~subsection 2451a(h)~~ subdivision 2451a(8) of this title, the courts of this State shall be guided by the construction of federal antitrust law and the Sherman Act, as amended, as interpreted by the courts of the United States.

Sec. 18. 9 V.S.A. § 2468(b) is amended to read:

(b) The manufacturer, through the assistive device lessor or assistive device dealer, shall provide the consumer with a loaner if the assistive device, listed in subdivisions 2467(1)(A) and (B) of this title, has any condition or defect that would substantially impair the device’s use, value, or safety to the consumer and that ~~can not~~ cannot be remedied within one business day.

Sec. 19. 9 V.S.A. § 2470bb(a) is amended to read:

(a) A third-party discount membership program is a good or service within the meaning of ~~subsection 2451a(b)~~ subdivision 2451a(2) of this chapter.

Sec. 20. 9 V.S.A. § 2470jj(a) is amended to read:

(a) An add-on discount membership program is a good or service within the meaning of ~~subsection 2451a(b)~~ subdivision 2451a(2) of this title.

Sec. 21. 9 V.S.A. § 2480b(e) is amended to read:

(e) The Attorney General may revise this required notice by rule as appropriate from time to time ~~so long as,~~ provided no new substantive rights are created ~~therein~~.

Sec. 22. 9 V.S.A. § 2480dd(a)(1) is amended to read:

(1) the transfer is in the best ~~interest~~ interests of the payee taking into account the welfare and support of the payee's dependents, considering all relevant factors, including:

\* \* \*

Sec. 23. 9 V.S.A. § 2501(4) is amended to read:

(4) "Advertisements and promotions" include all forms of solicitation directed at prospective callers of pay-per-call services, including mailings and advertisements in newspapers, and magazines, and on radio ~~and/or~~ and television.

Sec. 24. 9 V.S.A. § 2517 is amended to read:

§ 2517. CHARITABLE GIFT ANNUITIES

(a) Definitions. As used in this section:

\* \* \*

(b) Limitation. Charitable gift annuities may be issued and maintained only by a qualified charitable organization.

\* \* \*

Sec. 25. 9 V.S.A. § 2521 is amended to read:

§ 2521. TRADEMARK DEFINED

The term “trademark” as used ~~herein~~ in this subchapter includes any word, name, symbol, or device, or any combination thereof, adopted and used:

\* \* \*

Sec. 26. 9 V.S.A. § 2532 is amended to read:

§ 2532. PRIOR RIGHTS

Nothing ~~herein~~ in this subchapter shall adversely affect the rights or the enforcement of rights in marks acquired in good faith at any time at common law.

Sec. 27. 9 V.S.A. § 2602(a) is amended to read:

(a) Appraisal; disclosure. When a mobile home is sold or offered for sale:

\* \* \*

Sec. 28. 9 V.S.A. § 2744 is amended to read:

§ 2744. CAPACITY; PLATFORM SIZE; ONE-DRAFT WEIGHING

A licensed public weighmaster shall not use any scale to weigh a load the value of which exceeds the nominal or rated capacity of the scale. When the gross or tare weight of any vehicle or combination of vehicles is to be

determined, the weighing shall be performed upon a scale having a platform of sufficient size to accommodate such vehicle or combination of vehicles fully, completely, and as one entire unit. If a combination of vehicles must be broken up into separate units in order to be weighed as prescribed ~~herein~~ in this section, each such separate unit shall be entirely disconnected before weighing and a separate weight certificate shall be issued for each such separate unit.

Sec. 29. 9 V.S.A. § 2942 is amended to read:

§ 2942. TAGGING OF BEDDING AND FURNITURE

A person shall not manufacture for purposes of sale, sell, or offer or expose for sale, or have in possession with intent to sell any article of bedding or article of upholstered furniture unless there is plainly marked upon each such article or upon a tag sewed ~~thereon~~ on the article, or otherwise securely attached ~~thereto~~ to the article, a statement in the English language, containing no misleading terms or descriptions of the kind of material used for filling in the manufacture of such article, the name of the manufacturer or vendor, and a statement that such article contains all new material, and unless, if any such article is enclosed in a bale, box, crate, or other receptacle, there shall be plainly marked upon such receptacle, or upon a tag securely attached ~~thereto~~ to the receptacle, a statement that the contents of the package are marked as ~~herein~~ required in this section. Possession of any article of bedding or article of upholstered furniture not marked as provided ~~herein~~ in this section, by any

person engaged in the business of manufacturing, selling, or offering for sale any such article, shall be prima facie evidence that such article is being manufactured or is offered or exposed for sale in violation of the provisions of this section. The tag required by this section shall be at least three inches by four inches in dimensions and made of cloth or with a cloth back, or, in the case of articles of upholstered furniture, of paper or cloth, and shall be permanently pasted or attached to each such article.

Sec. 30. 9 V.S.A. § 3042(1) is amended to read:

(1) “Consumer” ~~shall have~~ has the same meaning as in ~~subsection 2451a(a)~~ subdivision 2451a(1) of this title.

Sec. 31. 9 V.S.A. § 3381(a) is amended to read:

(a) A receptacle containing gasoline or benzol of capacity not more than five gallons, except a motor vehicle, motor boat, gasoline engine, gasoline stove or lamp, shall be painted red and be labeled “gasoline” or “benzol,” as the case may be, in letters of a contrasting color and of a height of not less than one-half inch, or shall bear a red label similarly lettered of sufficient size to be conspicuous. A person shall not keep gasoline or benzol in a receptacle not conforming to the ~~above~~ requirements of this section.

Sec. 32. 9 V.S.A. § 3862(a) is amended to read:

(a) A person shall not carry on the business of pawnbroker unless he or she has obtained a license so to do as ~~hereinafter~~ provided in this section.

Sec. 33. 9 V.S.A. § 3866 is amended to read:

§ 3866. ISSUANCE OF PAWN TICKET; LOST TICKETS

At the time of making a loan, a pawnbroker shall deliver to the person pawning or pledging any goods, articles, or things, a memorandum or note signed by him or her, containing the substance of the entry required to be made in his or her book by section 3865 of this title, and a charge shall not be made or received by the pawnbroker for such entry, memorandum, or note. The holder of such memorandum or note shall be presumed to be the person entitled to redeem the pledge, and the pawnbroker shall deliver such article to the person so presenting such memorandum or note on payment of principal and interest. Should such ticket be lost or mislaid, the pawnor shall at once apply to the pawnbroker describing the article pawned, in which case it shall be the duty of the pawnbroker to permit such person to examine his or her books, and, on finding the entry for such ticket, note, or memorandum so lost, the pawnbroker shall issue a second or stop ticket for the same. In case such pawnor neglects so to apply and examine such books and receive such memorandum or note in the manner ~~herein~~ provided in this section, the pawnbroker shall deliver the pledge to any person producing such original ticket for the redemption thereof. This section shall not be so construed as to limit or affect such pawnbroker's common law liability in cases where goods are stolen or other legal defects of title in the pledgor exist.

Sec. 34. 9 V.S.A. § 4005a(f) is amended to read:

(f) Nothing ~~herein~~ in this section shall be construed to create a lien on real property. The existence of an express trust under this section shall not prohibit the filing or enforcement of a lien against the affected real property pursuant to chapter 51 of this title by any claimant. A priority lien of a secured lender shall not be subordinate to an express trust.

Sec. 35. 9 V.S.A. § 4041(1) is amended to read:

(1) ~~As used herein, the term “person” shall include~~ “Person” includes a natural person, a firm, an association, and a corporation, and any officer, employee, or agent thereof.

Sec. 36. 9 V.S.A. § 4089 is amended to read:

§ 4089. TERMINATION; CANCELLATION OR NONRENEWAL

(a) Notwithstanding the terms, provisions, or conditions of any franchise or notwithstanding the terms or provisions of any waiver, no manufacturer shall cancel, terminate, or fail to renew any franchise with a licensed new motor vehicle dealer unless ~~the manufacturer has~~:

(1) the manufacturer:

(A) has satisfied the notice requirement of section 4090 of this title;

~~(2)~~(B) has good cause for cancellation, termination, or nonrenewal; and

~~(3)~~(C) has acted in good faith as defined in this chapter; and

~~(4)(2)~~(A) ~~The~~ the Transportation Board finds after a hearing that the manufacturer has acted in good faith and there is good cause for cancellation, termination, failure to renew, or refusal to continue any franchise relationship. The, consistent with the following:

(i) the new motor vehicle dealer may file a protest with the Board within 45 days after receiving the 90-day notice. ~~—A;~~

(ii) a copy of the protest shall be served by the new motor vehicle dealer on the manufacturer. ~~—When;~~

(iii) when a protest is filed to challenge the cancellation, termination, or nonrenewal of a franchise agreement under this section, such franchise agreement shall remain in full force and effect, and such franchisee shall retain all rights and remedies pursuant to the terms and conditions of such franchise agreement, including the right to sell or transfer such franchisee's ownership interest until a final determination by the Board and any appeal; ~~or~~

(B) ~~The~~ the manufacturer, distributor, or branch or division thereof has received the written consent of the new motor vehicle dealer; or

(C) ~~The~~ the appropriate period for filing a protest has expired.

\* \* \*

(c) Notwithstanding the terms, provisions, or conditions of any agreement or franchise or the terms or provisions of any waiver, good cause shall exist for the purposes of a termination, cancellation, or nonrenewal when:

(1) there is a failure by the new motor vehicle dealer to comply with a provision of the franchise which provision is both reasonable and of material significance to the franchise relationship, provided that compliance on the part of the new motor vehicle dealer is reasonably possible; or if the failure by the new motor vehicle dealer to comply with a provision of the franchise is pursuant to a notice issued under subdivision ~~4090(a)(3)~~ 4090(a)(2)(A) of this title; and the manufacturer, distributor, or branch or division thereof first acquired actual or constructive knowledge of such failure not more than 180 days prior to the date on which notification is given pursuant to section 4090 of this title;

\* \* \*

Sec. 37. 9 V.S.A. § 4090(a) is amended to read:

(a) Notwithstanding the terms, provisions, or conditions of any franchise prior to the termination, cancellation, or nonrenewal of any franchise, the manufacturer shall furnish notification of such termination, cancellation, or nonrenewal to the new motor vehicle dealer as follows:

(1) in the manner described in subsection (b) of this section; and

(2) not less than 90 days prior to the effective date of such termination, cancellation, or nonrenewal; ~~or~~ except as follows:

~~(3)(A)~~ not less than 15 days prior to the effective date of such termination, cancellation, or nonrenewal that occurs as a result of:

~~(A)~~(i) insolvency of the new motor vehicle dealer, or filing of any petition by or against the new motor vehicle dealer under any bankruptcy or receivership law;

~~(B)~~(ii) failure of the new motor vehicle dealer to conduct its customary sales and service operations during its customary business hours for seven consecutive business days, except for acts of God or circumstances beyond the direct control of the new motor vehicle dealer;

~~(C)~~(iii) conviction of the new motor vehicle dealer, or any owner or operator thereof, of any crime that is punishable by imprisonment; or

~~(D)~~(iv) revocation of any license that the new motor vehicle dealer is required to have to operate a dealership;

~~(4)~~(B) not less than 180 days prior to the effective date of such termination, cancellation, or nonrenewal that occurs as a result of:

~~(A)~~(i) any change in ownership, operation, or control of all or any part of the business of the manufacturer, whether by sale or transfer of assets, corporate stock, or other equity interest, assignment, merger, consolidation, combination, joint venture, redemption, operation of law, or otherwise;

~~(B)~~(ii) the termination, suspension, or cessation of a part or all of the business operations of the manufacturer; or

~~(C)~~(iii) discontinuance of the sale of the product line or a change in distribution system by the manufacturer, whether through a change in

distributors or through the manufacturer's decision to cease conducting business through a distributor altogether.

Sec. 38. 9 V.S.A. § 4091 is amended to read:

§ 4091. PAYMENTS

(a) Within 90 days of the termination, nonrenewal, or cancellation of any franchise by the manufacturer, pursuant to section 4089 or subdivision ~~4090(a)(4)~~ 4090(a)(2)(B) of this title or to the termination, nonrenewal, or cancellation of a franchise by the franchisee, the new motor vehicle dealer shall be paid by the manufacturer for the:

\* \* \*

(b) In addition to the other payments set forth in this section, if a termination, cancellation, or nonrenewal is premised upon any of the occurrences set forth in subdivision ~~4090(a)(4)~~ 4090(a)(2)(B) of this title, then the manufacturer shall be liable to the dealer for an amount equivalent to the fair market value of the motor vehicle franchise on the day before the date the franchisor announces the action that results in termination, cancellation, or nonrenewal.

\* \* \*

Sec. 39. 9 V.S.A. § 4092(b) is amended to read:

(b) If the termination, cancellation, or nonrenewal is pursuant to subdivision ~~4090(a)(4)~~ 4090(a)(2)(B) of this title, then, with respect to such

facilities as were required as a condition of the franchise and used to conduct sales and service operations related to the franchise product, the manufacturer or distributor shall, in addition to the relief described in subsection (a) of this section:

\* \* \*

Sec. 40. 9 V.S.A. § 4108 is amended to read:

§ 4108. VOID AGREEMENT PROVISIONS

Any of the following provisions in an agreement or lease, if one is included, whether oral or written, between a supplier and dealer, shall be void as against public policy, except as otherwise provided herein in this chapter:

\* \* \*

Sec. 41. 9 V.S.A. § 4181(b) is amended to read:

(b) ~~Affirmative defense.~~ A person who demonstrates both of the following shall not be subject to liability or a penalty for a violation of this section:

\* \* \*

Sec. 42. 9 V.S.A. § 4467 is amended to read:

§ 4467. TERMINATION OF TENANCY; NOTICE

\* \* \*

(f) Termination date. In all cases, the termination date shall be specifically stated in the notice.

(g) Conversion to condominium. If the building is being converted to condominiums, notice shall be given in accordance with 27 V.S.A. chapter 15, subchapter 2.

(h) Termination of shared occupancy. A rental arrangement whereby a person rents to another individual one or more rooms in his or her personal residence that includes the shared use of any of the common living spaces, such as the living room, kitchen, or bathroom, may be terminated by either party by providing actual notice to the other of the date the rental agreement shall terminate, which shall be at least 15 days after the date of actual notice if the rent is payable monthly and at least seven days after the date of actual notice if the rent is payable weekly.

\* \* \*

(j) Payment after termination; effect.

(1) A landlord's acceptance of full or partial rent payment by or on behalf of a tenant after the termination of the tenancy for reasons other than nonpayment of rent or at any time during the ejectment action shall not result in the dismissal of an ejectment action or constitute a waiver of the landlord's remedies to proceed with an eviction action based on any of the following:

\* \* \*

(k) Commencement of ejectment action. A notice to terminate a tenancy shall be insufficient to support a judgment of eviction unless the proceeding is

commenced ~~no~~ not later than 60 days from the termination date set forth in the notice.

Sec. 43. 9 V.S.A. § 4500(a) is amended to read:

(a) The provisions of this chapter establishing legal standards, duties, and requirements with respect to persons with disabilities in places of public accommodation as defined ~~herein~~ in this chapter, except those provisions relating to remedies, are intended to implement and to be construed so as to be consistent with the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. and ~~rules adopted thereunder~~ regulations promulgated under that act, and are not intended to impose additional or higher standards, duties, or requirements than that act.

Sec. 44. 9 V.S.A. § 4506(e) is amended to read:

(e) ~~Retaliation prohibited.~~ A person shall not coerce, threaten, interfere, or otherwise discriminate against any individual who:

(1) ~~who~~ has opposed any act or practice that is prohibited under section 4502 or 4503 of this title;

(2) ~~who~~ has lodged a complaint or has testified, assisted, or participated in any manner with the Human Rights Commission in an investigation of acts or practices prohibited by this chapter;

(3) ~~who~~ is known by the person to be about to lodge a complaint, testify, assist, or participate in any manner in an investigation of acts or practices prohibited by this chapter;

(4) ~~who~~ is exercising or enjoying a right granted or protected by this chapter; or

(5) ~~who~~ is believed by the person to have acted as described in subdivisions (1) through (4) of this subsection.

Sec. 45. 10 V.S.A. § 280ee(c)(1) is amended to read:

(c)~~(1)~~ Requirements.

(1) The Authority shall make loans for start-up and expansion that enable the Internet service providers to expand broadband availability in unserved and underserved locations.

Sec. 46. 10 V.S.A. § 591(a)(9)(C) is amended to read:

(C) one member to represent ~~the~~ municipal governments;

Sec. 47. 10 V.S.A. § 591(c) is amended to read:

(c) ~~Subcommittees.~~ The Council shall create the subcommittees listed in this subsection and may also create other subcommittees to advise the Council, assist in preparing the Plan, and carry out other duties. The Council may appoint members of the Council to serve as members of subcommittees and may also appoint individuals who are not members of the Council to serve as members of subcommittees.

\* \* \*

Sec. 48. 10 V.S.A. § 1935(c) is amended to read:

(c) Violations. Each violation may be a separate and distinct offense and in the case of a continuing violation, each day's continuance ~~thereof~~ of the violation may be deemed a separate and distinct offense.

Sec. 49. 10 V.S.A. § 6244(b)(3) is amended to read:

(3) nonpayment of utility or other charges that the leaseholder was required to pay directly to the park owner or to a utility; or

Sec. 50. 10 V.S.A. § 6603c(c)(2)(C) is amended to read:

(C) Any project that does not meet the criterion of subdivision (2)(A) or (B) of this subsection (c) must be included in an approved solid waste implementation plan and is subject to the following priority list in descending order:

\* \* \*

Sec. 51. 16 V.S.A. § 166 is amended to read:

§ 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

\* \* \*

(f) Tuition bills. An approved independent school that accepts students for whom the district of residence pays tuition under chapter 21 of this title shall bill the sending district monthly for a State-placed student and shall not bill the

sending district for any month in which the State-placed student was not enrolled.

(g) Tuition students; assessments. An approved independent school that accepts students for whom the district of residence pays tuition under chapter 21 of this title shall use the assessment or assessments required under subdivision 164(9) of this title to measure attainment of standards for student performance of those students. In addition, the school shall provide data related to the assessment or assessments as required by the Secretary.

Sec. 52. 16 V.S.A. § 176 is amended to read:

§ 176. POSTSECONDARY SCHOOLS CHARTERED IN VERMONT

\* \* \*

(i) Rules; investigations. The Board may adopt rules and perform investigations in order to effectuate the purposes of this section.

(j) Cessation. In the event that a postsecondary school does not comply with the provisions of subsection (c) of this section or is denied the issuance of a certificate of approval or a certificate of degree-granting authority, the postsecondary school shall forthwith cease to operate.

(k) Enforcement. The Attorney General, upon request of the State Board, may bring an action to enjoin the operation of a postsecondary school that is operating in violation of this section.

(l) Violations. Any person, group, or entity, or any owner, officer, agent, or employee thereof, who willfully violates subsection (c) or (j) of this section shall be fined not to exceed \$1,000.00 or imprisoned for not more than one year, or both. Each day's violation shall be a separate violation.

(m) Reciprocity. Nothing in this chapter shall prohibit the State from participating in any interstate reciprocity agreement for the purpose of authorizing online postsecondary programs. For purposes of reciprocity between states for institutional authorization, the Secretary, or other Vermont agency as appropriate, shall investigate any complaints related to Vermont institutions participating in a recognized interstate reciprocity agreement.

Sec. 53. 16 V.S.A. § 180 is amended to read:

§ 180. STUDENT RIGHTS- FREEDOM OF EXPRESSION

(a) ~~Findings.~~

\* \* \*

(b) ~~Definitions.~~ As used in this chapter:

\* \* \*

Sec. 54. 16 V.S.A. § 215(b) is amended to read:

(b) Grant Program. The Secretary shall establish and implement a Challenge to Excellence Grant Program for the purpose of promoting quality education for Vermont students. Eligible applicants include Vermont public schools, including regional career technical centers, and Vermont supervisory

unions on behalf of a school or schools. All proposals shall be to develop or carry out a comprehensive plan, which may be an action plan pursuant to subdivision 165(a)(1) of this title, to create educational opportunities for each student within the school. Any plan shall be developed with the involvement of parents and other community members, staff, and business representatives, and shall be designed to assist students in meeting State Board and school board standards. Grants shall be for up to \$50,000.00 and shall include a 1-1 match from other sources of funding, including grants from businesses, foundations, or other federal or local funding. Priority shall be given to schools that the Secretary finds are having difficulty meeting the quality standards listed in subsection 165(a) of this title or are making insufficient progress in improving student performance in relation to the standards set forth in subdivision 164(9) of this title. Eligible activities include:

\* \* \*

Sec. 55. 16 V.S.A. § 253(b) is amended to read:

(b) The Secretary, a superintendent, or a headmaster may disclose criminal records and criminal record information received under this subchapter to a qualified entity upon request, provided that the qualified entity has signed a user agreement and received authorization from the subject of the record request. As used in this section, “qualified entity” means an individual, organization, or governmental body doing business in Vermont that has one or

more individuals performing services for it within the State and that provides care or services to children, persons who are elders, or persons with disabilities as defined in ~~42 U.S.C. § 5119e~~ 34 U.S.C. § 40104.

Sec. 56. 16 V.S.A. § 267(b) is amended to read:

(b) The supervisory union may provide any authorized or required services by contract with any person, partnership, corporation, or school district within or outside the supervisory union or with other supervisory unions. The supervisory union may also provide such services to any independent school in the supervisory union area on such terms as the supervisory union board deems proper. Contracts shall be approved by the board and signed by the chair or the chair's designee. A contract may be for a term not to exceed four years renewable for successive four-year periods.

Sec. 57. 16 V.S.A. § 563(1) is amended to read:

(1) Shall determine the educational policies of the school district. Board policies shall be of general application to the district; and shall be in writing, codified, and made available to the public. Board policies shall be adopted at regular or special school board meetings. A school board shall give public notice of its intent to adopt a board policy, stating the substance of the proposed policy, at least ten days prior to its adoption. A school board may also approve or disapprove rules and regulations proposed by the principal or

superintendent for the conduct and management of public schools in the district.

Sec. 58. 16 V.S.A. § 825(a)(5) is amended to read:

(5) expenditures for special education; and

Sec. 59. 16 V.S.A. § 1055(a)(1) is amended to read:

(1) written permission from the student's parent or guardian containing a release of the school from all legal responsibility for the student while engaged in the periodic released time program; and

Sec. 60. 16 V.S.A. § 1261a(1) is amended to read:

(1) "Food programs" means provision of food to persons under programs meeting standards for assistance under the National School Lunch Act, 42 U.S.C. § 1751 et seq., and in the Child Nutrition Act, ~~42 U.S.C. § 1779~~ 42 U.S.C. § 1771 et seq., each as amended.

Sec. 61. 16 V.S.A. § 1577(1) is amended to read:

(1) To determine the educational policies of the career technical center. Policies shall be of general application to the center; and shall be in writing, codified, and made available to the public. Board policies shall be adopted at regular or special meetings. A board shall give public notice of its intent to adopt a board policy, stating the substance of the proposed policy, at least ten days prior to its adoption. A board may also approve or disapprove rules and

regulations proposed by the director for the conduct and management of the center.

Sec. 62. 16 V.S.A. § 1693(a) is amended to read:

(a) Board creation. There is hereby established the Vermont Standards Board for Professional Educators comprising 13 members as follows: seven teachers; two administrators, one of whom shall be a school superintendent; one public member; one school board member; one representative of educator preparation programs from a public institution of higher education; and one representative of educator preparation programs from a private institution of higher education.

Sec. 63. 16 V.S.A. § 1946b(d)(4) is amended to read:

(4) withdrawal of the member's contributions without the consent of the member and the alternate payee; or

Sec. 64. 16 V.S.A. § 2868 is amended to read:

§ 2868. NOTES, BONDS, AND OTHER OBLIGATIONS

\* \* \*

(e) Pledges. Any pledge made by the Corporation shall be valid and binding from the time when the pledge is made; the revenues, monies, or property so pledged and thereafter received by the Corporation shall immediately be subject to the lien of the pledge without any physical delivery of it or further act. That pledge shall be valid and binding as against all parties

having claims of any kind in tort, contract, or otherwise against the Corporation, irrespective of whether those parties have notice of it.

\* \* \*

(g) ~~Any~~ Fully negotiable instruments. Notwithstanding any provision of law to the contrary ~~notwithstanding~~, a bond, note, or other obligation issued under this chapter is fully negotiable for all purposes of 9A V.S.A. § 1-101 et seq., and each holder or owner of such, or of any coupon appurtenant to them, by accepting the bond or note or other obligation or coupon shall be conclusively deemed to have agreed that such instrument is fully negotiable for those purposes, and all bonds, notes, or other obligations and interest coupons appertaining to them issued by the Corporation shall have and are hereby declared to have all the qualities and incidents of investment securities under 9A V.S.A. § 1-101 et seq., but no provision of those sections respecting the filing of a financing statement to perfect a security interest shall be applicable to any pledge made or security interest created in connection with the issuance of the bonds, notes, other obligations, or coupons.

(h) No impairment by the State. The State does hereby pledge to and agree with the holders of the notes, bonds, and other obligations issued under this chapter that the State will not limit or restrict the rights hereby vested in the Corporation to perform its obligations and to fulfill the terms of any agreement made with the holders of its bonds or notes or other obligations. Neither will

the State in any way impair the rights and remedies of the holders until the notes and bonds and other obligations, together with interest on them, and interest on any unpaid installments of interest, are fully met, paid, and discharged. The Corporation is authorized to execute this pledge and agreement of the State in any agreement with the holders of the notes or bonds or other obligations.

(i) No liability of the State. Notes, bonds, or other obligations issued under the provisions of this chapter shall not be deemed to constitute a debt or liability or obligation of the State of Vermont or of any political subdivision of it, nor shall it be deemed to constitute a pledge of the faith and credit of the State or of any political subdivision, but shall be payable solely from the revenues or assets of the Corporation pledged to support them. Each obligation issued by the Corporation shall contain on its face a statement to the effect that the Corporation shall not be obligated to pay the same nor the interest on it except from the revenues or assets pledged for those purposes and that neither the faith and credit nor the taxing power of the State of Vermont or of any political subdivision of it is pledged to the payment of the principal of or the interest on these obligations.

(j) Legal investment. Notwithstanding any ~~other~~ provision of law to the contrary, the State and all public officers, governmental units, and agencies of the State; all banks, trust companies, savings banks and institutions, building

and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business; all insurance companies, insurance associations, and other persons carrying on an insurance business; all credit unions; and all executors, administrators, guardians, trustees, and other fiduciaries may legally invest any sinking funds, monies, or other funds belonging to them or within their control in any bonds or notes or other obligations issued under this chapter, and the bonds or notes or other obligations are authorized security for any and all public deposits.

(k) Role of the Corporation. The Corporation is designated as the guarantor, servicer, and secondary loan market for all educational loans in this State.

(l) 8 V.S.A. chapter 73 inapplicable. Notwithstanding any general or special law to the contrary, the provisions of 8 V.S.A. chapter 73 (licensed lenders, mortgage brokers, mortgage loan originators, sales finance companies, and loan solicitation companies) shall not apply to the Corporation or to any loan made, purchased, or guaranteed pursuant to this chapter.

\* \* \*

Sec. 65. 16 V.S.A. § 3448f(f)(1)(D) is amended to read:

(D) provides detailed information concerning the amount and schedule of payments to be made under the terms of the performance contract; and

Sec. 66. 16 V.S.A. § 3453a is amended to read:

§ 3453a. EMERGENCY OPERATION CENTERS AND SHELTERS

Any school building that may be designated as a local, regional, or State emergency operation center or shelter shall be designed for use as an emergency operations center or shelter. For this purpose, the proposed project shall include the installation of a wiring harness capable of being connected to emergency electric power generation to provide for emergency heating, lighting, and communications. The wiring installation cost to upgrade emergency facilities shall be included in the budgets submitted to the ~~Legislature~~ General Assembly for capital funding pursuant to 32 V.S.A. § 309. The State shall pay 100 percent of such costs, which shall at the Agency level be itemized and accounted for separately from those costs in which the State only shares in the project cost. The State shall not pay for the costs of purchasing the generator.

Sec. 67. 16 V.S.A. § 3682 is amended to read:

§ 3682. CONTENTS OF COMPLAINT; PARTY DEFENDANT; NOTICE

~~Such~~ A complaint brought in accordance with section 3681 of this title shall set forth the situation of such corporation or association within the provisions of that section 3681 ~~of this title~~ and shall describe particularly the fund involved and shall pray for relief under the provisions of this subchapter. The Attorney General shall be cited as party defendant. Public notice shall be

given by publication of the substance of the complaint and the time and place to which the complaint is returnable, pursuant to the provisions of 1 V.S.A. § 174 and ~~12 V.S.A. § 4319~~ V.R.C.P. 4(g).

Sec. 68. 16 V.S.A. § 3852(a) is amended to read:

(a) A board of 13 members known as the Vermont Educational and Health Buildings Financing Agency is created. It is a body corporate and politic constituting a public instrumentality of the State. The State Treasurer or his or her designee, and the Secretaries of Education, of Human Services, and of Administration shall be members ex officio. The Governor, with the advice and consent of the Senate, shall appoint seven members for six-year terms. The members appointed by the Governor shall appoint two additional members whose term of office shall be two years.

Sec. 69. 16 V.S.A. § 3854(c)(8) is amended to read:

(8) providing for disposition of the facility after liabilities of the Agency incurred for the facility have been met and the bonds or notes of the Agency issued therefor or secured by the revenues thereof have been paid or otherwise satisfied; and

Sec. 70. 16 V.S.A. § 4014(a) is amended to read:

(a) ~~Grants.~~ The Secretary may grant funds for voluntary early education programs. The funds may be used for personnel costs, training of parents and

staff, materials and educational equipment, and other costs related to early education programs.

Sec. 71. 16 V.S.A. § 4028(d) is amended to read:

(d) ~~Notwithstanding 2 V.S.A. § 502(b)(2), the~~ The Joint Fiscal Office shall prepare a fiscal note for any legislation that requires a supervisory union or school district to perform any action with an associated cost, but does not provide money or a funding mechanism for fulfilling that obligation. Any fiscal note prepared under this subsection shall be completed ~~no~~ not later than the date that the legislation is considered for a vote in the first committee to which it is referred.

Sec. 72. 18 V.S.A. § 4230(d) is amended to read:

(d) Cannabis-infused products. Only the portion of a cannabis-infused product that is attributable to cannabis shall count toward the possession limits of this section. The weight of cannabis that is attributable to cannabis-infused products shall be determined according to methods set forth in rule by the Department of Public Safety in accordance with chapter 86 of this title (therapeutic use of cannabis).

Sec. 73. 18 V.S.A. § 4230(a)(2)(A) is amended to read:

(2)(A) A person shall not consume cannabis in a public place. ~~“Public~~  
As used in this section, “public place” has the same meaning as provided by 7 V.S.A. § 831.

Sec. 74. 18 V.S.A. § 9491(b)(1) is amended to read:

(b)(1) ~~In maintaining the strategic plan, the~~ The Director or designee shall consult with an advisory group composed of the following 11 members, at least one of whom shall be a nurse, to develop and maintain the strategic plan:

\* \* \*

Sec. 75. 19 V.S.A. § 5(c) is amended to read:

(c) The Board may delegate the responsibility to hear quasi-judicial matters, and other matters as it may deem appropriate, to a hearing examiner or a single Board member, to hear a case and make findings in accordance with 3 V.S.A. chapter 25, except that highway condemnation proceedings shall be conducted pursuant to the provisions of chapter 5 of this title. A hearing examiner or single Board member so appointed shall report ~~his or her~~ the findings of fact in writing to the Board. Any order resulting ~~therefrom~~ from those findings shall be rendered only by a majority of the Board. Final orders of the Board issued pursuant to section 20 of this title may be reviewed on the record by a Superior Court pursuant to Rule 74 of the Vermont Rules of Civil Procedure. All other final orders of the Board may be reviewed on the record by the Supreme Court.

Sec. 76. 19 V.S.A. § 7(e)(4) is amended to read:

(4) whenever the Agency is developing preliminary plans for a new or replacement maintenance facility or salt shed, first conduct a review of all

previously developed building plans and give priority to utilizing a common, uniform, and preexisting design.

Sec. 77. 19 V.S.A. § 10 is amended to read:

§ 10. DUTIES

The Agency shall, except where otherwise specifically provided by law:

(1) Award contracts on terms as it deems to be in the best ~~interest~~ interests of the State; for the construction, repair, or maintenance of transportation related facilities; for the use of any machinery or equipment either with or without operators or drivers; for the operation, repair, maintenance, or storage of any State-owned machinery or equipment; for professional engineering services, inspection of work or materials, diving services, mapping services, photographic services, including aerial photography or surveys, and any other services, with or without equipment, in connection with the planning, construction, and maintenance of transportation facilities. Persons rendering these services shall not be within the classified service, and the services shall not entitle the provider to rights under any State retirement system. Notwithstanding 3 V.S.A. chapter 13, the Agency may contract for services also provided by ~~persons~~ individuals in the classified service, either at present or at some time in the past. The solicitation and award of contracts by the Agency shall follow procurement standards approved

by the Secretary of Administration as well as applicable federal laws and regulations.

(2) Control and direct the use and expenditures of all ~~moneys~~ monies appropriated by the State for transportation purposes; and prepare and use a budget for these expenditures.

(3) Exercise general supervision of all transportation functions, have the right to direct traffic on all State highways ~~which~~ that are under construction and maintenance, and may close all or any part of a State highway ~~which~~ that is under construction or repair. The Agency shall maintain detours comprising State or town highways, or both, around planned closures of State highways in excess of 72 hours. If the Agency maintains a detour on a town highway, it shall be responsible for repairing any damage to the town highway caused by the detoured traffic.

\* \* \*

(9) Require any contractor or contractors employed in any project of the Agency for construction of a transportation improvement to file an additional surety bond to the Secretary and ~~his or her~~ the Secretary's successor in office, for the benefit of labor, materialmen, and others, executed by a surety company authorized to transact business in this State, in such sum as the Agency shall direct, conditioned for the payment, settlement, liquidation, and discharge of the claims of all creditors for material, merchandise, labor, rent, hire of

vehicles, power shovels, rollers, concrete mixers, tools, and other appliances, professional services, premiums, and other services used or employed in carrying out the terms of the contract between the contractor and the State of ~~Vermont~~ and further conditioned for the payment of taxes both State and municipal, and contributions to the Vermont Commissioner of Labor, accruing during the term of performance of the contract. However, in order to obtain the benefit of the security, the claimant shall file with the Secretary a sworn statement of ~~his or her~~ the claimant's claim, within 90 days after the final acceptance of the project by the State of ~~Vermont~~ or within 90 days from the time the taxes or contributions to the Vermont Commissioner of Labor are due and payable, and, within one year after the filing of the claim, shall bring a petition in the Superior Court in the name of the Secretary, with notice and summons to the principal, surety, and the Secretary, to enforce the claim or intervene in a petition already filed. The Secretary ~~at his or her discretion as to~~ may, if the Secretary determines that it is in the best interest interests of the State, ~~may~~ accept other good and sufficient surety in lieu of a bond.

\* \* \*

Sec. 78. 19 V.S.A. § 10a is amended to read:

§ 10a. PROCUREMENT OF ENGINEERING AND DESIGN SERVICES  
THROUGH COMPETITIVE NEGOTIATION

(a) For purposes of this section, “competitive negotiation” means a method of procurement ~~whereby~~ where proposals are requested from a number of sources, and either a fixed-price or cost-reimbursable type contract is awarded, as appropriate.

(b) Contracts for program management, construction management, feasibility studies, preliminary engineering, design engineering, surveying, mapping or architectural related services with respect to projects subject to the provisions of section 111(a) of the Surface Transportation and Uniform Relocation Assistance Act of 1987, Pub. L. No. 100-17, as may be amended, ~~(including amendments thereto)~~ may be awarded by competitive negotiation.

\* \* \*

Sec. 79. 19 V.S.A. § 10f(a) is amended to read:

(a) It shall be the ~~state's~~ State's policy to make maximum use of available federal funds for the support of public transportation. State operating support funds shall be included in ~~agency~~ Agency operating budgets to the extent that funds are available. It shall be the ~~state's~~ State's policy to support the maintenance of existing public transportation services, to ~~assure~~ ensure the rapid replacement of any unplanned decrease in service, and to support the creation of new service that is accessible and affordable to those who use these services.

Sec. 80. 19 V.S.A. § 10k is amended to read:

§ 10k. STATEMENT OF POLICY; ASSET MANAGEMENT; SALE OF  
STATE PROPERTY

(a) The ~~agency~~ Agency shall develop an asset management plan ~~which that~~ is a systematic goal- and performance-driven management and decision-making process of operating, maintaining, and upgrading transportation assets cost-effectively. At a minimum, the asset management system shall:

- (1) identify transportation system indicators by which the different components of the transportation system may be evaluated;
- (2) list all of the infrastructure assets and their condition, including, ~~but not limited to,~~ pavements, structures, and facilities;
- (3) include deterioration rates for infrastructure assets; and
- (4) determine, long-term, the annual funds necessary to fund infrastructure maintenance at the recommended performance level.

(b) The ~~agency~~ Agency shall not negotiate nor offer for sale any ~~state~~ State property for less than fair market value without the prior approval of the ~~general assembly~~ General Assembly, if in session, and, if not in session, the ~~joint fiscal committee~~ Joint Fiscal Committee. The ~~agency~~ Agency may sell or lease land to municipalities for less than fair market value when and for so long as the land is to be used by the municipality for transportation purposes.

Sec. 81. 19 V.S.A. § 11d is amended to read:

§ 11d. FUNDS FOR REHABILITATION OF HISTORIC BRIDGES

(a) Notwithstanding 32 V.S.A. § 706(1) and (2), the ~~agency of transportation~~ Agency of Transportation may transfer funds to the ~~division for historic preservation~~ Division for Historic Preservation in the ~~agency of commerce and community development~~ Agency of Commerce and Community Development to be used for the following purposes:

- (1) Repairing, rehabilitating, restoring, and maintaining historic bridges.

To the maximum extent feasible, bridges shall be made available to the public for transportation and recreational uses, including ~~but not limited to~~ bicycle paths, hiking trails, snowmobile trails, fishing access, picnic areas, or rest stops.

- (2) Grants to municipalities, nonprofit corporations, ~~state~~ State agencies, or other responsible parties for the repair and maintenance of historic bridges.

- (3) Funding for planning and engineering studies for the preservation of historic bridges.

- (4) Moving, storing, or otherwise preserving historic bridges.

(b) Funds transferred may include, ~~but are not limited to~~, appropriations from the ~~transportation fund~~ Transportation Fund, federal funds made available to mitigate the adverse effects of new construction on historic bridges, and ~~moneys~~ monies from other public or private sources.

(c) Transfer of funds under this section shall constitute acceptance by the ~~division for historic preservation~~ Division for Historic Preservation that funds transferred will be used solely for the preservation of historic bridges as outlined in subsection (a) of this section. Transfers, however, may be conditioned upon use for one or more specific purposes identified by subsection (a) of this section.

Sec. 82. 19 V.S.A. § 12b is amended to read:

§ 12b. JOINT TRANSPORTATION OVERSIGHT COMMITTEE

(a) There is created a Joint Transportation Oversight Committee composed of the Chairs of the House and Senate Committees on Appropriations, the House and Senate Committees on Transportation, the House Committee on Ways and Means, and the Senate Committee on Finance. The Committee shall be chaired alternately by the Chairs of the House and Senate Committees on Transportation, and the two-year term shall run concurrently with the biennial session of the ~~Legislature~~ General Assembly. The Chair of the Senate Committee on Transportation shall chair the Committee during the 2009–2010 legislative session.

(b) The Committee shall meet during adjournment for official duties. Meetings shall be convened by the Chair and, when practicable, shall be coordinated with the regular meetings of the Joint Fiscal Committee. Members shall be entitled to compensation and reimbursement pursuant to 2 V.S.A.

§ 23. The Committee shall have the assistance of the staff of the Office of Legislative Counsel, the Office of Legislative Operations, and the Joint Fiscal Office.

(c) The Committee shall provide legislative oversight of the Transportation Fund revenues collection and the operation and administration of the Agency of Transportation construction, paving, and rehabilitation programs. The Secretary of Transportation shall report to the ~~Oversight~~ Committee upon request.

(d) If and when applicable, the Secretary shall submit electronically to the Joint Fiscal Office for distribution to members of the ~~Joint Transportation Oversight~~ Committee a report summarizing any plans or actions taken to delay project schedules as a result of:

\* \* \*

Sec. 83. 19 V.S.A. § 15a is amended to read:

§ 15a. BORDER CROSSINGS; COOPERATION WITH FEDERAL  
GOVERNMENT

(a) Notwithstanding any other provision of this title but pursuant to the provisions of subsection (b) of this section, the ~~agency~~ Agency (in the case of ~~state~~ State highways) and municipalities (in the case of town highways) are authorized to cooperate with federal projects to modernize border crossings between the United States and Canada by relinquishing to the federal

government those portions of ~~state~~ State or town highways approaching the border that may be required by the federal government for its border crossing projects, ~~pursuant to the provisions of subsection (b) of this section.~~

(b) In connection with the relinquishments authorized in subsection (a) of this section, the ~~agency~~ Agency and municipalities are authorized to execute agreements with the federal government, including a conveyance of an interest in real property, easements, leases, and other instruments necessary to ~~assure~~ ensure that federal requirements are met. The federal government shall be responsible for maintenance of those ~~state~~ State and town highways relinquished under this section.

Sec. 84. 19 V.S.A. § 19 is amended to read:

§ 19. SMALL BUSINESS ENTERPRISES

It is declared to be in the best ~~interest~~ interests of the ~~state of Vermont~~ State and the general welfare of ~~the people of the state of Vermont~~ Vermonters to encourage and develop the actual and potential capacity of small business enterprises, and to use this important segment of the ~~state's~~ State's economy to the fullest practicable extent in the construction of ~~state~~ State highways, including federal aid and interstate highway systems. In order to carry out this intent and encourage full and free competition, the ~~Vermont agency of transportation should~~ Agency of Transportation shall cooperate with small business enterprises in connection with the ~~state~~ State highway construction

program. Nothing contained in this section shall be considered or construed as meaning more than a legislative declaration of intent and policy. The decisions and actions of the ~~agency~~ Agency shall not be subject to judicial challenge.

Sec. 85. 19 V.S.A. § 26a(d) is amended to read:

(d) Nothing in this section shall be construed to impair any contractual rights existing on ~~the effective date of this section~~ June 9, 2007. The State shall have no authority under this section to waive any sums due to a railroad. The State shall also not offer any grants or waivers of charges for any new broadband installations in segments of rail corridor where an operating railroad has installed or allowed installation of fiber optic facilities prior to ~~the effective date of 2007 Acts and Resolves No. 79~~ June 9, 2007 unless the State offers equivalent terms and conditions to the owner or owners of existing fiber optic facilities.

Sec. 86. 19 V.S.A. § 30 is amended to read:

§ 30. ISSUE OF NOTES FOR STATE HIGHWAY CONSTRUCTION

The ~~state treasurer~~ State Treasurer, with the approval of the ~~governor~~ Governor, may borrow money upon notes of the ~~state~~ State in anticipation of the proceeds of transportation bonds ~~which~~ that have been or subsequently are authorized by the ~~general assembly~~ General Assembly or in anticipation of the proceeds of federal funds made available to Vermont for purposes of construction of transportation facilities, when the construction has been

previously authorized by the ~~legislature~~ General Assembly and provision made for the ~~state's~~ State's portion of the cost. The notes shall be issued on terms and at times as ~~they~~ the State Treasurer and Governor may determine. Not more than \$5,000,000.00 principal amount of the notes shall be outstanding at any one time and each note shall mature not later than one year from its date, provided that notes issued for a shorter period may be refunded from time to time by the issue of other notes maturing within the required period. Any purchaser of notes issued under this section may rely on this section as the authorization for the notes and need not examine the availability or amount of the bond authorizations or federal funds being anticipated. This authority is in addition to and not in limitation of any other authority.

Sec. 87. 19 V.S.A. § 33(h) is amended to read:

(h) ~~Damages~~. A property owner aggrieved by a survey may seek damages for the loss of property or for the loss of an interest in property.

Sec. 88. 19 V.S.A. § 306(i) is amended to read:

(i) Municipal Mitigation Assistance Program. The Agency shall administer the Municipal Mitigation Assistance Program. Through the Program, the Agency shall provide assistance and grants to municipalities for environmental mitigation projects related to stormwater and highways and for the establishment and operation of stormwater utilities. Municipalities shall match grants with local funds sufficient to cover 20 percent of the project costs,

except that the Agency may issue grants for the establishment or operation of stormwater utilities without requiring a local match. From the operating expenses appropriated for the Program, the Agency is authorized to pay costs billed to the Agency by municipal stormwater utilities.

Sec. 89. 19 V.S.A. § 306a(b) is amended to read:

(b) The provisions of this section shall not affect any legislative body's jurisdiction over class 1 town highways or any municipality's responsibility for general maintenance of class 1 town highways, including, ~~but not limited to,~~ spot patching, traffic control devices, curbs, sidewalks, drainage, and snow removal.

Sec. 90. 19 V.S.A. § 501 is amended to read:

#### § 501. DEFINITIONS

~~The following words and phrases as used in this chapter shall have the following meanings~~ As used in this chapter:

\* \* \*

Sec. 91. 19 V.S.A. § 502 is amended to read:

#### § 502. AUTHORITY; PRECONDEMNATION HEARING

(a) Authority. The Agency, when in its judgment the interests of the State require, may take any property necessary to lay out, relocate, alter, construct, reconstruct, maintain, repair, widen, grade, or improve any State highway, including affected portions of town highways. In furtherance of these

purposes, the Agency may enter upon lands to conduct necessary examinations and surveys; however, the Agency shall do this work with minimum damage to the land and disturbance to the owners and shall be subject to liability for actual damages. All property taken permanently shall be taken in fee simple whenever practicable. The Agency's acquisition of property pursuant to this chapter, whether by condemnation or conveyance in lieu of condemnation, shall not require subdivision approval under any law, regulation, or municipal ordinance. For all State highway projects involving property acquisitions, the Agency shall follow the provisions of the Uniform Relocation Assistance and Real Property ~~Acquisitions~~ Acquisition Policies Act (~~Act~~) and its implementing regulations, as may be amended.

(b) Limited access highway facilities. The Agency, in the construction and maintenance of limited access highway facilities, may also take any land or rights of the landowner in land under 9 V.S.A. chapter 93, subchapter 2, relating to advertising on limited access highways.

\* \* \*

(d) Land used for school purposes. The Agency shall not take land or any right in land that is owned by a town or union school district and being used for school purposes until the voters of the district have voted on the issue of taking at a meeting called for that purpose. A special meeting of the town or union school district shall be called promptly upon receiving notice of a public

hearing unless the annual meeting is to be held within 30 days after receiving the notice of public hearing. Due consideration shall be given by the court to the result of the vote, in addition to the other factors referred to in section 501 of this title, in determining necessity.

(e) Future planning. In the interests of orderly and effective future planning, the Agency may acquire land and rights in land to be used for highway purposes within the reasonably foreseeable future, including future construction of four-lane highways on routes presently designed for construction of two lanes, and the construction of interchanges, bridges, and all other improvements to existing highways or highways presently scheduled for construction. In the case of the laying out of highways on a new location, “reasonably foreseeable future” means projects on which construction is to be commenced in a period not exceeding 15 years from the date of acquisition. In the event the Agency determines that the land is no longer necessary for use as a highway, it shall immediately sell the property at public sale to private persons, giving consideration to the adjoining landowners.

Sec. 92. 19 V.S.A. § 504(a)(4) is amended to read:

(4) A survey of the proposed project, and legal descriptions of the property and of the interests ~~therein~~ in the property proposed to be taken. As used in this subdivision, “survey” means a plan, profile, or cross section of the

proposed project. The survey and legal descriptions served upon the property owner only need to include the particular property or properties at issue.

Sec. 93. 19 V.S.A. § 511(a)(3) is amended to read:

(3) A property owner may file a petition, complaint, or motion under subdivision (1) or (2) of this subsection ~~no~~ not later than 90 days after the date of the notice of taking required under subsection 506(b) of this chapter.

Sec. 94. 19 V.S.A. § 516 is amended to read:

§ 516. RELOCATION

A municipal corporation affected by a relocation ~~as above provided under~~ this chapter may appear and be heard at any proceedings in connection with the relocation. If, after the hearing, the court determines that the relocation of a highway is necessary for the convenience of individuals or of the ~~state~~ State, the court shall, by its order, determine under what conditions the ~~agency of transportation~~ Agency of Transportation shall relinquish control to the town of that portion of the ~~state~~ State highway system affected by the relocation.

When the ~~agency of transportation~~ Agency has complied with the conditions, it shall certify and record this information in the clerk's office of the town in which the highway lies and thereafter the maintenance and control of the portions of the highway relinquished shall be vested in the town where located.

Sec. 95. 19 V.S.A. § 519 is amended to read:

§ 519. CONDOMINIUMS; COMMON AREAS AND FACILITIES

(a) ~~For purposes of~~ As used in this section, ~~the terms~~ “apartment owner,” “association of owners,” “common areas and facilities,” and “declaration” ~~shall~~ have the same meanings as in the Condominium Ownership Act, 27 V.S.A. ~~chapter 15 § 1302.~~

(b) Notwithstanding any other provision of law, whenever the Agency ~~under this chapter~~ proposes under this chapter to acquire any common areas and facilities of a condominium, the association of owners shall constitute the interested person or persons interested in lands in lieu of the individual apartment owners for purposes of the necessity hearing, the compensation hearing, and any appeals ~~therefrom~~ from the necessity hearing or compensation hearing.

\* \* \*

Sec. 96. 19 V.S.A. § 701 is amended to read:

§ 701. DEFINITIONS

As used in this chapter:

\* \* \*

Sec. 97. 19 V.S.A. § 794 is amended to read:

§ 794. HIGHWAY NEAR BUT NOT ON LINE BETWEEN TOWNS

(a) When the public good or the convenience of the inhabitants requires a highway to be laid out, reclassified, or altered so that it shall be near the line between two towns instead of on the town line, on account of the position of the land or nature of the soil over which it is laid, and, when both towns are benefited in a similar manner as though the highway were on the line, the highway may be laid out, reclassified, or altered by the ~~selectmen~~ selectboard or the ~~superior court~~ Superior Court, on the report of commissioners. The damages and expenses of making and repairing the highway may be apportioned and the same proceedings shall be followed as provided in case of laying out, reclassifying, and altering highways on the line between two towns.

(b) When the ~~selectmen~~ selectboard of the towns are petitioned as provided in this chapter and do not lay out, alter, or reclassify or discontinue a highway on or near a line between two towns, ~~persons~~ individuals who are either voters or landowners, and whose number is at least five percent of the voters, of the towns may apply to the ~~superior court~~ Superior Court. The court shall inquire and render judgment using the same proceedings as in the case of a highway extending into or through two or more towns. The court may inquire of and receive recommendations from a commissioner or commissioners, but the court shall issue the order. The court shall direct in its order which part of the highway each town shall make, or repair, or reclassify, and what damages shall be paid by each, if a highway is made or altered.

Sec. 98. 19 V.S.A. § 819 is amended to read:

§ 819. OTHER INVESTIGATION

The applicant town should also consult with such other agencies or departments of ~~state~~ State government, including ~~but not limited to the agency of commerce and community development~~ Agency of Commerce and Community Development, the ~~health department~~ Department of Health, and the ~~department of forests, parks and recreation~~ Department of Forests, Parks and Recreation as may be necessary to furnish the ~~general assembly~~ General Assembly with complete information as to the effect of the proposed highway and the development of the facilities upon the community and the ~~state~~ State. Whenever a town informs one of those departments or agencies that it has applied for funds under this subchapter, and needs assistance to develop the information needed to support the advisability of constructing the highway, that department or agency promptly shall investigate the proposal and provide a complete report to the town. Upon request, a copy shall be provided to the ~~general assembly~~ General Assembly.

Sec. 99. 19 V.S.A. § 901(2) is amended to read:

(2) A person, other than the abutting landowner or municipality, shall not cut, trim, remove, or otherwise damage any grasses, shrubs, vines, or trees growing within the limits of a town highway without first ~~having obtained~~ obtaining the consent of the legislative body.

Sec. 100. 19 V.S.A. § 906 is amended to read:

§ 906. PENALTIES

A person who ~~wilfully~~ willfully drives over or parks or otherwise impedes normal use on a sidewalk or footpath, except where it is necessary to cross the sidewalk for the purpose of entering private grounds, shall be fined not more than \$25.00 nor less than \$5.00.

Sec. 101. 19 V.S.A. § 978 is amended to read:

§ 978. LIABILITY OF AGENT

An agent appointed under the provisions of this chapter who ~~wilfully~~ willfully or negligently fails to spend the money paid to ~~him or her~~ the agent, or to make return to the commissioners or the court of the amount of money not spent by ~~him or her~~ the agent in making or repairing the highway or bridge, as provided in this chapter, shall be liable to the town in which the highway or bridge is situated in a civil action, for all money paid to ~~him or her~~ the agent and not spent as provided in this chapter.

Sec. 102. 19 V.S.A. § 1108(a) is amended to read:

(a) A person who wantonly or ~~wilfully~~ willfully injures a highway, or a bridge, or any of their components by destroying or removing planks, posts, timber, stones, or asphalt surface, or by digging pits for gravel, clay, or for any other purpose, shall forfeit to the town or ~~state~~ State, to be expended in repairing highways, not more than \$100.00 plus actual costs of repairing

damage to be recovered in a civil action in the name of the town or ~~state~~ State,  
with costs.

Sec. 103. 19 V.S.A. § 1111(c) is amended to read:

(c)~~(1)~~ Installing pipes and wires in highway.

(1) It shall be unlawful to dig up or excavate a trench in a public highway for the purpose of installing pipes or wires without a written permit from the Agency in the case of State highways and the selectboard for town highways. The permit shall include any conditions imposed by the issuing party. All inspection of excavation and backfilling shall be done under the supervision of an agent of either the town or State as the case may be. Failure of any person, corporation, or municipality to perform the work or to restore the highways in a satisfactory and timely manner to the Agency or the town may result in either the Agency or the town completing the work at the expense of the permit holder; provided, however, the Agency or town shall give timely notice to the permit holder of any defects, and the permit holder, upon receipt of notice, shall have a reasonable time in which to repair the defects. The Agency or the selectboard may recover reasonable expenses incurred in this manner in a civil action in the name of the State or town with costs.

\* \* \*

Sec. 104. 19 V.S.A. § 1111(e) is amended to read:

(e) Project inspectors; highway access plan. The Agency may assign an inspector to the project during construction at the applicant's expense. Any application to the Agency for a drive or access permit by reason of any development subject to the provisions of this section shall include a proposed highway access plan for the entire tract of land. The Agency shall impose reasonable conditions to reduce the number of accesses that will be required for the tract of land. These conditions may include one or more of the following: a required setback of any construction or improvements from the highway to permit the construction of frontage road or roads; acceleration and deceleration lanes; ~~and/or~~ or other areas for off-highway control and management of vehicles, and may require reimbursement for any costs to the State for the installation of traffic control devices or road improvements reasonably required because of the development, and may permit or require integration of the access and on-site traffic control facilities and connection of frontage roads between contiguous tracts of land as development is occurring or may occur along the highway.

Sec. 105. 19 V.S.A. § 1511 is amended to read:

§ 1511. TOWN APPROVAL OF PROJECTS ON THE STATE HIGHWAY  
SYSTEM

(a) If a planned highway project is located completely within one town or is located in more than one town and in the event the voters of one of the towns at an annual or special meeting ~~which~~ that has been warned, vote against that project within one year after the corridor ~~and/or~~ or corridor design hearing, or both, the project shall be suspended by the ~~transportation agency~~ Agency of Transportation and the facts related to the project with appropriate recommendations shall be reported to the ~~board~~ Transportation Board for its review. The ~~board~~ Board shall make its report with recommendations to the ~~legislature~~ General Assembly, which shall order either completion or discontinuance of the project.

(b) The provisions of subsection (a) of this section do not apply to any project ~~which~~ that:

(1) has been the subject of a corridor or corridor/design hearing prior to May 1, 1982; or

(2) was specifically designated for one or more of the following: preliminary design; right-of-way acquisition; ~~and/or~~ or construction by the ~~legislature~~ General Assembly prior to May 1, 1982.

Sec. 106. 19 V.S.A. § 1602 is amended to read:

§ 1602. DEFINITIONS

~~The following words and phrases as used in this chapter shall have the following meanings~~ As used in this chapter:

\* \* \*

Sec. 107. 19 V.S.A. § 1604 is amended to read:

§ 1604. APPLICABILITY

(a) Eligibility for reimbursement of utility relocation costs incurred for highway projects that advance to the construction phase after ~~the effective date of this act~~ April 25, 1995 shall be determined in accordance with the standards provided in this chapter.

(b) The reimbursement provisions of this chapter only apply to “utilities,” as defined in section 1602 of this title.

(c) Unless the context clearly indicates otherwise, this chapter shall be applied in conjunction with regulations of the ~~United States~~ U.S. Department of Transportation, Federal Highway Administration, 23 C.F.R. Part 645-Utilities, as ~~from time to time~~ may be amended.

Sec. 108. 19 V.S.A. § 2101 is amended to read:

§ 2101. DEFINITIONS

As used in this chapter, ~~the following words and terms shall have the following meanings~~ unless the context ~~shall~~ clearly ~~indicate~~ indicates another meaning or different intent:

\* \* \*

Sec. 109. 19 V.S.A. § 2601 is amended to read:

§ 2601. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, ~~the following terms have the following meanings:~~

(1) “Best value” means the highest overall value to the ~~state~~ State, considering quality and cost.

(2) “Design-build contracting” means a method of project delivery ~~whereby~~ where a single entity is contractually responsible to perform design, construction, and related services.

(3) “Major participant” means any entity that would have a major role in the design or construction of the project as specified by the ~~agency~~ Agency in the request for proposals.

\* \* \*

(7) “Quality” means those features that the ~~agency~~ Agency determines are most important to the project. Quality criteria may include quality of design, constructability, long-term maintenance costs, aesthetics, local impacts, traveler and other user costs, service life, time to construct, and other factors that the ~~agency~~ Agency considers to be in the best ~~interest~~ interests of the ~~state~~ State.

Sec. 110. 19 V.S.A. § 2602(c) is amended to read:

\* \* \*

(c) The ~~agency~~ Agency retains the authority to terminate the contracting process at any time, to reject any proposal, to waive technicalities, or to advertise for new proposals if the ~~agency~~ Agency determines that it is in the best ~~interest~~ interests of the ~~state~~ State.

Sec. 111. 20 V.S.A. § 1 is amended to read:

§ 1. PURPOSE AND POLICY

(a) Because of the increasing possibility of the occurrence of disasters or emergencies of unprecedented size and destructiveness resulting from all-hazards and in order to ~~insure~~ ensure that preparation of this ~~state~~ State will be adequate to deal with such disasters or emergencies; to provide for the common defense ~~and~~; to protect the public peace, health, and safety; and to preserve the lives and property of the people of the ~~state~~ State it is ~~hereby~~ found and declared to be necessary:

(1) ~~To~~ to create a ~~state~~ State emergency management agency, and to authorize the creation of local and regional organizations for emergency management;

(2) ~~To~~ to confer upon the ~~governor~~ Governor and upon the executive heads or legislative branches of the towns and cities of the ~~state~~ State the emergency powers provided ~~herein~~. pursuant to this chapter;

(3) ~~To~~ to provide for the rendering of mutual aid among the towns and cities of the ~~state~~ State, ~~and~~; with other states and Canada, and with the federal

government with respect to the carrying out of emergency management functions; and

(4) ~~To~~ to authorize the establishment of ~~such~~ organizations and the taking of ~~such~~ steps as ~~are~~ necessary and appropriate to carry out the provisions of this chapter.

(b) It is further declared to be the purpose of this chapter and the policy of the ~~state~~ State that all emergency management functions of this ~~state~~ State be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's resources and facilities for dealing with any emergencies resulting from all-hazards.

Sec. 112. 20 V.S.A. § 2 is amended to read:

## § 2. DEFINITIONS

As used in this chapter:

\* \* \*

(2) "Commissioner" means the ~~commissioner of public safety~~  
Commissioner of Public Safety.

(3) "Director" means the ~~director~~ Director of Vermont ~~division of~~  
~~emergency management~~ Division of Emergency Management.

(4) “Emergency functions” include services provided by the ~~department of public safety~~ Department of Public Safety, firefighting services, police services, sheriff’s department services, medical and health services, rescue, engineering, emergency warning services, communications, evacuation of persons, emergency welfare services, protection of critical infrastructure, emergency transportation, temporary restoration of public utility services, other functions related to civilian protection and all other activities necessary or incidental to the preparation for and carrying out of these functions.

\* \* \*

(6) “Emergency management” means the preparation for and implementation of all emergency functions, other than the functions for which ~~military forces~~ the U.S. Armed Forces or other federal agencies are primarily responsible, to prevent, plan for, mitigate, and support response and recovery efforts from all hazards. Emergency management includes the equipping, exercising, and training designed to ~~insure~~ ensure that this ~~state~~ State and its communities are prepared to deal with all-hazards.

\* \* \*

(8) “Hazardous chemical or substance” means:

\* \* \*

(B) Any substance as defined in 42 U.S.C. § 9601(14) or designated hazardous by the administrator of the ~~United States~~ U.S. Environmental Protection Agency pursuant to 42 U.S.C. §§ 9602(a) or 11002(a)(2).

\* \* \*

(D) Fungicides, herbicides, insecticides, or rodenticides as defined in 6 V.S.A. § 911.

\* \* \*

(10) “Homeland security” means the preparation for and carrying out of all emergency functions, other than the functions for which ~~military forces~~ the U.S. Armed Forces or other federal agencies are primarily responsible, to prevent, minimize, or repair injury and damage resulting from or caused by enemy attack, sabotage, or other hostile action.

\* \* \*

Sec. 113. 20 V.S.A. § 6 is amended to read:

§ 6. LOCAL ORGANIZATION FOR EMERGENCY MANAGEMENT

(a) Each town and city of this ~~state~~ State is ~~hereby~~ authorized and directed to establish a local organization for emergency management in accordance with the ~~state~~ State emergency management plan and program. Except in a town that has a town manager in accordance with 24 V.S.A. chapter 37 ~~of Title 24~~, the executive officer or legislative branch of the town or city is authorized to appoint a town or city emergency management director who shall have

direct responsibility for the organization, administration, and coordination of the local organization for emergency management, subject to the direction and control of the executive officer or legislative branch. If the town or city that has not adopted the town manager form of government and the executive officer or legislative branch of the town or city has not appointed an emergency management director, the executive officer or legislative branch shall be the town or city emergency management director. The town or city emergency management director may appoint an emergency management coordinator and other staff as necessary to accomplish the purposes of this chapter.

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

\* \* \*

(d) Each local organization shall annually notify the local emergency planning committee on forms provided by the ~~state emergency response commission~~ State Emergency Response Commission of its capacity to perform

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

Sec. 114. 20 V.S.A. § 7 is amended to read:

§ 7. MOBILE SUPPORT UNITS

(a) Organization. The ~~commissioner~~ Commissioner is authorized to create and establish ~~such number of~~ mobile support units as ~~may be~~ necessary to reinforce emergency management organizations in stricken areas and with due consideration of the plans of the federal government, the government of Canada, and other states. A mobile support unit shall be subject to call to duty and shall perform these functions in this ~~state~~ State, in Canada, or in other states in accord with its charter and ~~regulations prescribed~~ rules adopted by the ~~governor~~ Governor and with the terms of this chapter.

(b) Personnel; powers and immunities, compensation.

(1) Personnel of mobile support units while engaged in emergency management, whether within or ~~without~~ outside the ~~state~~ State, shall:

(A) if they are employees of the ~~state~~ State, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment;

(B) if they are employees of a political subdivision of the ~~state~~ State, have the powers, duties, rights, privileges, and immunities and receive the compensation incidental to their employment; and

(C) if they are not employees of the ~~state~~ State, or a political subdivision ~~thereof of the State~~, be entitled to appropriate compensation as fixed by the ~~commissioner or designee~~ Commissioner with the approval of the ~~governor~~ Governor, and to the same rights and immunities as are provided by law for the employees of this ~~state~~ State.

(2) All personnel of mobile support units, while engaged in emergency management, shall be subject to the operational control of the authority in charge of emergency management activities in the area in which they are serving; and shall be reimbursed for all actual and necessary travel and subsistence expenses.

(c) Reimbursement of municipalities. The ~~state~~ State shall reimburse a political subdivision of the ~~state~~ State for the compensation paid and actual and necessary travel, subsistence, and maintenance expenses of employees of ~~such~~ the political subdivision of the ~~state~~ State while serving as members of a mobile support unit; ~~and~~; for all payments of death, disability, or injury of ~~such~~ the employees incurred in the course of such duty; ~~and~~ for all losses of or damage to supplies and equipment of ~~such~~ the political subdivision of the ~~state~~ State resulting from the operation of ~~such~~ the mobile support unit.

(d) Aid from other states. Whenever a mobile support unit of another state ~~shall render~~ provides aid in this ~~state~~ State pursuant to the orders of the governor of its home state and upon the request of the ~~governor of this state~~ Governor, this ~~state~~ State shall reimburse ~~such~~ the other state for the compensation paid and actual and necessary travel, subsistence, and maintenance expenses of the personnel of ~~such~~ the mobile support unit while ~~rendering such~~ providing the aid, and for all payments for death, disability, or injury of ~~such~~ the unit's personnel incurred in the course of ~~rendering such~~ providing the aid, and for all losses of or damage to supplies and equipment of ~~such~~ the other state or a political subdivision ~~thereof~~ that state resulting from the ~~rendering~~ provision of ~~such~~ the aid: provided, that the laws of ~~such~~ the other state contain provisions substantially similar to this section or that substantially similar provisions ~~to the foregoing effect~~ are ~~embodied~~ contained in a reciprocal mutual-aid agreement or compact or that the federal government has authorized or agreed to make reimbursements for ~~such~~ the mutual aid ~~as above provided~~ on a basis that is substantially similar to the requirements of this section.

(e) Aid to other states. No personnel of mobile support units of this ~~state~~ State shall be ordered by the ~~governor~~ Governor to operate in any other state unless the laws of ~~such~~ the other state contain provisions substantially similar to this section or unless the reciprocal mutual aid agreements or compacts

include provisions providing for such reimbursements or unless ~~such~~ the reimbursements will be made by the federal government by law or agreement.

Sec. 115. 20 V.S.A. § 8 is amended to read:

§ 8. GENERAL POWERS OF GOVERNOR

(a) The ~~governor~~ Governor shall have general direction and control of the emergency management agency and shall be responsible for ~~the~~ carrying out ~~of~~ the provisions of this chapter.

(b) In performing the duties under this chapter, the ~~governor~~ Governor is further authorized and empowered:

(1) Orders, and rules ~~and regulations~~. To make, amend and rescind the necessary orders, and rules ~~and regulations~~ to carry out the provisions of this chapter with due consideration of the plans of the federal government.

(2) Plans.

(A) To prepare a comprehensive plan and program for the emergency management of this ~~state, such plan and program~~ State to be integrated into and coordinated with the emergency management plans of the federal government, the Canadian government, and other states to the fullest possible extent; ~~and~~.

(B) To coordinate the preparation of plans and programs for emergency management with public safety districts, local emergency planning committees, regional planning commissions, and by the municipalities of this

~~state, such~~ State. The plans ~~to~~ shall be integrated into and coordinated with the emergency management plans and program of this ~~state~~ State to the fullest possible extent.

(3) Inventories, training, mobilization. In accordance with ~~such~~ the plan and program for the emergency management of the ~~state~~ State:

(A) to ascertain the requirements of the ~~state~~ State or the municipalities for food or clothing or other necessities of life in any all-hazards event and to plan for and procure supplies, medicines, materials, and equipment for the purposes set forth in this chapter;

(B) to make surveys of the industries, resources, and facilities within the ~~state~~ State as ~~are~~ necessary to carry out the purposes of this chapter, provided that no inventory or record of privately owned firearms shall be made under ~~authority of this or any other provision~~ the provisions of this chapter; and

(C) to institute training programs and public information programs, and to take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster, to ensure the furnishing of adequately trained and equipped forces of emergency management personnel in time of need.

(4) Cooperation with the president and others.

(A) To cooperate with the president and the heads of the ~~armed~~  
~~forces~~ U.S. Armed Forces, and the ~~homeland security agency of the United~~  
~~States~~ U.S. Department of Homeland Security, and with the officers and  
agencies of other states in matters pertaining to the emergency management of  
the ~~state~~ State and nation;

(B) ~~to~~ To take any measures ~~not inconsistent with the constitution of~~  
~~this state, which,~~ consistent with the Vermont Constitution, that the ~~governor~~  
~~may deem~~ Governor deems proper to ~~carry into effect~~ implement any request  
for the president and the appropriate federal officers and agencies, for any  
action looking to emergency management, including the direction or control of  
mobilization of emergency management and homeland security forces, tests  
and exercises, warnings and signals for drills or emergencies, shutting off  
water mains, gas mains, electric power connections and the suspension of all  
other utility services, the conduct of civilians and the movement and cessation  
of movement of pedestrians and vehicular traffic during, prior, and subsequent  
to drills or attack, public meetings or gatherings, and the evacuation and  
reception of the civilian population.

(5) Services and facilities. To utilize the services and facilities of  
existing officers and agencies of the ~~state~~ State and of the counties and  
municipalities of the ~~state, and all the~~ State. All officers and agencies shall

cooperate with and extend services and facilities to the ~~governor~~ Governor as the ~~governor~~ Governor may request.

(6) Law enforcement. To take ~~such~~ action and give ~~such~~ directions to ~~state~~ State and local law enforcement officers and agencies as may be reasonable and necessary ~~for the purpose of securing to secure~~ compliance with the provisions of this chapter and with the orders, and rules, ~~and~~ ~~regulations~~ made pursuant ~~thereto~~ to this chapter.

(7) Delegation of authority. To delegate any authority vested in the ~~governor~~ Governor under this chapter to the ~~commissioner~~ Commissioner or designee.

(8) Mutual aid agreements with other states. On behalf of this ~~state~~ State, to enter into reciprocal aid agreements under this chapter and pursuant to compacts with other states and the federal government or a province of a foreign country under such terms as the Congress of the United States may prescribe. These mutual aid arrangements shall be limited to the furnishing or exchange of food, clothing, medicine, and other supplies; engineering services; emergency housing; police services; ~~national~~ National Guard or state ~~guards~~ guard units while under the control of the ~~state~~ State; health; medical and related services; fire fighting, rescue, transportation, and construction services and equipment; personnel necessary to provide or conduct these services; and ~~such~~ other supplies, equipment, facilities, personnel, and services as ~~may be~~

needed; and the reimbursement of costs and expenses for equipment, supplies, personnel, and similar items for mobile support units, fire fighting, and police units and health units; ~~and~~. The mutual aid agreements shall be made on such terms and conditions as ~~are deemed~~ the Governor deems necessary.

(9) Mutual aid among municipalities. To sponsor, develop, and approve mutual aid plans and agreements among the towns and cities of the ~~state~~ State, similar to the mutual aid arrangements referred to in this section.

Sec. 116. 20 V.S.A. § 9 is amended to read:

#### § 9. EMERGENCY POWERS OF GOVERNOR

Subject to the provisions of this chapter, in the event of an all-hazards event in or directed upon the United States or Canada that causes or may cause substantial damage or injury to persons or property within the ~~bounds of the~~ State in any manner, the Governor may proclaim a state of emergency within the entire State or any portion or portions of the State. Thereafter, the Governor shall have and may exercise for as long as the Governor determines the emergency to exist the following additional powers within such area or areas:

(1) To enforce all laws; and rules; ~~and regulations~~ relating to emergency management and to assume direct operational control of all emergency management personnel and helpers in the affected area or areas.

(2) To formulate and execute plans and ~~regulations~~ rules for the control of traffic and to coordinate the activities of the departments or agencies of the State and of the political subdivisions ~~thereof~~ of the State concerned directly or indirectly with public highways and streets, in a manner that will best effectuate ~~such~~ the plans.

(3) To prescribe the maximum rates of speed at which motor vehicles may be operated on any road, highway, or street in the State; prescribe the sizes and weights of such motor vehicles; suspend the application of any statute or ~~regulation~~ rule levying or assessing any license, insofar as ~~such~~ the statute or ~~regulation~~ rule relates to the entry into or the privilege of operation in this State of any motor vehicle, including busses or house trailers, registered in any other state and with respect to which a valid and unexpired license has been issued by the other state.

\* \* \*

(5) To utilize the services and facilities of existing officers, and agencies of the State and of the cities and towns ~~thereof~~ of the State; and all such officers and agencies shall cooperate with and extend their services and facilities to the Governor as he or she may request.

\* \* \*

(8) Upon the declaration of an emergency as authorized in federal legislation that includes the State of Vermont, to cooperate with the President

of the United States, the ~~Army, Navy, and Air Force~~ U.S. Armed Forces, with other federal departments, agencies, and independent establishments, and other states in matters pertaining to emergency management; and in connection therewith to take such action, not inconsistent with the Constitution and laws of the State, that he or she may deem proper to carry into effect any request of the President, the Secretary of Defense, the Secretary of Homeland Security, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency.

\* \* \*

(10) As provided in 30 V.S.A. § 248(1), in consultation with the Chair of the Public Utility Commission and the Commissioner of Public Service or their designees, to waive the prohibitions contained in 30 V.S.A. § 248 upon site preparation for or construction of an electric transmission facility or a generating facility necessary to ~~assure~~ ensure the stability or reliability of the electric system or a natural gas facility. Waivers issued under this subdivision shall be subject to ~~such~~ conditions ~~as are~~ required by the Governor and shall be valid for the duration of the declared emergency plus 180 days, or such lesser overall term as determined by the Governor. Upon the expiration of a waiver under this subdivision, if a certificate of public good has not been issued by the Public Utility Commission under 30 V.S.A. § 248, the Commission shall require the removal, relocation, or alteration of the facilities, subject to the

waiver, as the Commission finds will best promote the general good of the State.

(11) In consultation with the Secretary of Natural Resources or designee, to authorize the Agency to issue temporary emergency permits, with appropriate conditions to minimize significant adverse environmental impacts, after limited or no opportunity for public comment, allowing site preparation for, construction of, or operation of an electric transmission facility or a generating facility necessary to ~~assure~~ ensure the stability or reliability of the electric system or a natural gas facility. A permit issued under this subdivision shall be subject to ~~such~~ conditions ~~as are~~ required by the Governor and shall be valid for the duration of the declared emergency plus 180 days, or such lesser overall term as determined by the Governor. Upon the expiration of a temporary emergency permit under this subdivision, if any applicable permits have not been issued by the Secretary or the Commissioner of Environmental Conservation, the Secretary may seek enforcement under applicable law.

Sec. 117. 20 V.S.A. § 11 is amended to read:

#### § 11. ADDITIONAL EMERGENCY POWERS

In the event of an all-hazards event, the ~~governor~~ Governor may exercise any or all of the following additional powers:

(1) To authorize any department or agency of the ~~state~~ State to lease or lend, on such terms and conditions and for such period as he or she ~~may deem~~

deems necessary to promote the public welfare and protect the ~~interest~~ interests of the ~~state~~ State, any real or personal property of the ~~state~~ State government, or authorize the temporary transfer or employment of personnel of the ~~state~~ State government to or by the ~~army, navy, air force, or any other branch of the armed forces of the United States of America~~ U.S. Armed Forces.

(2) To enter into a contract on behalf of the ~~state~~ State for the lease or loan, on such terms and conditions and for such period as he or she ~~may deem~~ deems necessary to promote the public welfare and protect the interests of the ~~state~~ State, of any real or personal property of the ~~state~~ State government, or the temporary transfer or employment of personnel thereof to any town or city of the ~~state~~ State. The chief executive or legislative branch of ~~such~~ the town or city is ~~hereby~~ authorized for and in the name ~~thereof~~ of the town or city to enter into ~~said~~ the contract with the ~~governor~~ Governor for the leasing or lending of ~~such~~ the property and personnel, and the chief executive or legislative branch of ~~such~~ the town or city may equip, maintain, utilize, and operate such property except newspapers and other publications, radio stations, places of worship and assembly, and other facilities for the exercise of constitutional freedom, and employ necessary personnel ~~therefor~~ in accordance with the purposes for which such contract is executed; and may do all things and perform all acts ~~which may be deemed~~ necessary to effectuate the purpose for which ~~such~~ the contract was entered into.

\* \* \*

(4) To sell, lend, give or distribute all or any such property among the inhabitants of the ~~state~~ State and to account to the ~~state treasurer~~ State Treasurer for any funds received for such property.

(5) To make compensation for the property ~~so~~ seized, taken, or condemned on the following basis:

(A) In case property is taken for temporary use, the ~~governor~~ Governor, at the time of the taking, shall fix the amount of compensation to be paid ~~therefor; for the property,~~ and in case ~~such the property shall be~~ is returned to the owner in a damaged condition or shall not be returned to the owner, the ~~governor~~ Governor shall fix the amount of compensation to be paid for ~~such the~~ damage or failure to return. Whenever the ~~governor shall deem~~ Governor deems it advisable for the ~~state~~ State to take title to property taken under this section, ~~he~~ the Governor shall forthwith cause the owner of ~~such the~~ property to be notified ~~thereof of the taking~~ in writing by registered mail, postage prepaid, and forthwith cause to be filed a copy of ~~said the~~ notice with the ~~secretary~~ Secretary of ~~state~~ State.

(B) Any owner of property of which possession has been taken under the provisions of this chapter to whom no award has been made or who is dissatisfied with the amount awarded him or her by the ~~governor,~~ Governor may file a petition in the ~~superior court~~ Superior Court within the county

wherein the property was situated at the time of taking to have the amount to which he or she is entitled by way of damages or compensation determined, and ~~thereafter~~ either the petitioner or the ~~state~~ State shall have the right to have the amount of such damages or compensation fixed after hearing by three disinterested appraisers appointed by ~~said~~ the court, and who shall operate under substantive and administrative procedure to be established by the ~~superior~~ Superior judges. If the petitioner is dissatisfied with the award of the appraisers, he or she may ~~file an appeal therefrom in said court~~ the award to the Superior Court and thereafter have a trial by jury to determine the amount of ~~such~~ the damages or compensation ~~in such manner as the court shall provide~~. The court costs of a proceeding brought under this section by the owner of the property shall be paid by the ~~state~~; State, and the fees and expenses of any attorney for ~~such~~ the owner shall also be paid by the ~~state~~ State after allowances by the court ~~wherein in which~~ the petition is brought in ~~such~~ an amount as determined by the court ~~in its discretion shall fix~~. The statute of limitations shall not apply to proceedings brought by ~~such~~ owners of property ~~as above provided~~ under this section for and during the time that any court having jurisdiction ~~of such~~ over the proceedings ~~shall be~~ is prevented from holding its usual and stated sessions due to conditions resulting from emergencies ~~as herein referred to~~ described in this chapter.

(6) To perform and exercise ~~such~~ other functions, powers, and duties as ~~may be deemed~~ necessary to promote and secure the safety and protection of the civilian population.

Sec. 118. 20 V.S.A. § 15 is amended to read:

§ 15. RETURN OF PROPERTY

(a) Whenever the need for the purposes of this chapter of any real or personal property acquired under this chapter shall terminate, the ~~governor~~ Governor may dispose of such property on such terms and conditions as he ~~shall deem~~ she deems appropriate, but to the extent feasible and practicable ~~he~~ the Governor shall give to the former owner of any property so disposed of an opportunity to reacquire it:

(1) at its then fair value as determined by the ~~governor~~ Governor; or

(2) if it is to be disposed of (~~otherwise, other~~ than at a public sale of which he the Governor shall give reasonable notice), at less than such value, at the highest price any other person is willing to pay ~~therefor~~: for the property.

(b) ~~Provided, that this~~ The Governor need not provide an opportunity to reacquire ~~need not be given~~ property in the case of items ~~which~~ that lose their identity in use or to property having a fair value of less than \$500.00.

Sec. 119. 20 V.S.A. § 16 is amended to read:

§ 16. ORDERS; AND RULES ~~AND REGULATIONS~~

The towns and cities of the ~~state~~ State and other agencies designated or appointed by the ~~governor~~ Governor are authorized and empowered to make, amend, and rescind ~~such orders, and~~ rules, and regulations as ~~may be~~ necessary for emergency management purposes and to supplement the carrying out of the provisions of this chapter, ~~but not~~. Orders and rules adopted pursuant to this section shall not be inconsistent with any orders, and rules or regulations promulgated adopted by the ~~governor~~ Governor or by any ~~state~~ State agency exercising a power delegated to it by him or her.

Sec. 120. 20 V.S.A. § 17 is amended to read:

§ 17. GIFT, GRANT, OR LOAN

(a) Federal. Whenever the federal government or any agency or officer ~~thereof shall offer~~ of the federal government offers to the ~~state~~ State, or through the ~~state~~ State to any town or city ~~thereof~~ within Vermont, services, equipment, supplies, materials, or funds by way of gift, grant, or loan; for purposes of emergency management, the ~~state~~ State, acting through the ~~governor~~ Governor in coordination with the ~~department of public safety~~ Department of Public Safety, or such town or city acting with the consent of the ~~governor~~ Governor and through its executive officer or legislative branch, may accept ~~such~~ the offer, and upon such acceptance, the ~~governor of the state~~ Governor or the executive officer or legislative branch of ~~such~~ the political subdivision may authorize any officer of the ~~state~~ State or of the political

subdivision, as the case may be, to receive ~~such~~ the services, equipment, supplies, materials, or funds on behalf of the ~~state~~ State or ~~such~~ the political subdivisions, and subject to the terms of the offer and rules ~~and regulations~~, if any, of the agency making the offer. Whenever ~~such~~ a federal grant is contingent upon a ~~state~~ State or local contribution, or both, the ~~department of public safety~~ Department of Public Safety and the political subdivision shall determine whether the grant shall be accepted and, if accepted, the respective shares to be contributed by the ~~state~~ State and town or city concerned.

(b) Private. Whenever any person, firm, or corporation ~~shall offer~~ offers to the ~~state~~ State or to any town or city ~~thereof~~, in Vermont services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of emergency management, the ~~state~~ State, acting through the ~~governor~~ Governor, or ~~such~~ the political subdivision, acting through its executive officer or legislative branch, may accept ~~such~~ the offer, and upon such acceptance, the ~~governor of the state~~ Governor or executive officer or legislative branch of ~~such~~ the political subdivision may authorize any officer of the ~~state~~ State or the political subdivision, as the case may be, to receive ~~such~~ the services, equipment, supplies, materials, or funds on behalf of the ~~state~~ State or ~~such~~ the political subdivision, and subject to the terms of the offer.

Sec. 121. 20 V.S.A. § 25 is amended to read:

§ 25. MATCHING FUNDS

To the extent of any appropriation available to carry out the purposes of this chapter, federal ~~moneys~~ monies for emergency management within the ~~state~~ State may be matched ~~therefrom~~ from such an appropriation.

Sec. 122. 20 V.S.A. § 32 is amended to read:

§ 32. LOCAL EMERGENCY PLANNING COMMITTEES; CREATION;  
DUTIES

(a) Local emergency planning committees shall be appointed by the ~~state~~ State Emergency Response Commission ~~emergency response commission~~.

(b) Local emergency planning committees should include representatives from the following: fire departments; local and regional emergency medical services; local, county, and ~~state~~ State law enforcement; media; transportation; regional planning commissions; hospitals; industry; the ~~national guard~~ National Guard; the ~~department of health~~ Department of Health district office; and an animal rescue organization; and may include any other interested public or private individual or organization.

(c) A local emergency planning committee shall perform all the following duties:

(1) Carry out all the requirements of a committee pursuant to EPCRA, including preparing a local emergency planning committee response plan. The

plan shall be coordinated with the ~~state~~ State emergency operations plan and may be expanded to address all hazards and all phases of emergency management. At a minimum, the local emergency planning committee response plan shall include the following:

\* \* \*

(H) Provides for coordinated local training to ensure integration with the ~~state~~ State emergency operations plan.

\* \* \*

(2) Upon receipt by the committee or the committee's designated community emergency coordinator of a notification of a release of a hazardous chemical or substance, ~~insure~~ ensure that the local emergency response plan has been implemented.

\* \* \*

(4) Review and evaluate requests for funding and other resources and advise the ~~state emergency response commission~~ State Emergency Response Commission and district coordinators concerning disbursement of funds.

(5) Work to support the various emergency services, mutual aid systems, town governments, regional planning commissions, ~~state~~ State agency district offices, and others in their area in conducting coordinated all-hazards emergency management activities.

Sec. 123. 20 V.S.A. § 34 is amended to read:

§ 34. TEMPORARY HOUSING FOR DISASTER VICTIMS

(a) Whenever the ~~governor~~ Governor has proclaimed a disaster emergency under the laws of this ~~state~~ State, or the president has declared an emergency or a major disaster to exist in this ~~state~~ State, the ~~governor~~ Governor is authorized:

(1) To enter into purchase, lease, or other arrangements with any agency of the United States for temporary housing units to be occupied by disaster victims and to make such units available to any political subdivision of the ~~state~~ State.

(2) To assist any political subdivision of this ~~state which~~ State that is the locus of temporary housing for disaster victims to acquire sites necessary for ~~such~~ the temporary housing and to do all things required to prepare ~~such~~ the site to receive and utilize temporary housing units by:

(A) advancing or lending funds available to the ~~governor~~ Governor from any appropriation made by the ~~legislature~~ General Assembly or from any other source,

\* \* \*

(C) becoming a co-partner with the political subdivision for the execution and performance of any temporary housing for disaster victims project and for such purposes to pledge the credit of the ~~state~~ State on such

terms as ~~he~~ the Governor deems appropriate having due regard for current debt transactions of the ~~state~~ State.

(b) Under ~~such regulations as he shall prescribe~~ rules adopted by the Governor, to temporarily suspend or modify for not ~~to exceed~~ more than 60 days any public health, safety, zoning, transportation (within or across the ~~state~~ State), or other requirement of law or ~~regulation~~ rules within ~~this state~~ Vermont when by proclamation ~~he~~ the Governor deems ~~such~~ the suspension or modification essential to provide temporary housing for disaster victims.

(c) Any political subdivision of this ~~state~~ State is expressly authorized to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster victims, and to enter into whatever arrangements (~~including purchase of temporary housing units and payment of transportation charges~~) which are necessary to prepare or equip such sites to utilize the housing units, including the purchase of temporary housing units and payment of transportation charges.

(d) The ~~governor~~ Governor is authorized to ~~make~~ adopt rules ~~and regulations~~ as necessary to carry out the purposes of this chapter.

(e) Nothing ~~contained~~ in this chapter shall be construed to limit the ~~governor's~~ Governor's authority to apply for, administer, and expend any grants, gifts, or payments in aid of disaster prevention, preparedness, response, or recovery.

(f) ~~“Major As used in this chapter, “major disaster,” “emergency,” and “temporary housing” as used in this chapter shall have the same meaning as the terms are defined, or used, in the Disaster Relief Act of 1974, (P.L. 93-288, 88 Stat. 143).~~

Sec. 124. 20 V.S.A. § 36 is amended to read:

§ 36. DEBRIS AND WRECKAGE REMOVAL

(a) Whenever the ~~governor~~ Governor has declared a disaster emergency to exist under the laws of this ~~state~~ State, or the president, at the request of the ~~governor~~ Governor, has declared a major disaster or emergency to exist in this ~~state~~ State, the ~~governor~~ Governor is authorized:

(1) Notwithstanding any other provision of law, through the use of ~~state~~ State departments or agencies, or the use of any of the ~~state's~~ State's instrumentalities, to clear or remove from publicly or privately owned land or water, debris and wreckage ~~which that~~ that may threaten public health or safety, or public or private property, in any disaster emergency declared by the ~~governor~~ Governor or major disaster as declared by the president.

(2) To accept funds from the federal government and utilize ~~such the~~ the funds to make grants to any local government for the purpose of removing debris or wreckage from publicly or privately owned land or water.

(b) Authority under this chapter shall not be exercised unless the affected local government, corporation, organization, or individual shall first present an

unconditional authorization for removal of ~~such~~ the debris or wreckage from public and private property and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the ~~state~~ State government against any claim arising from such removal.

(c) Whenever the ~~governor~~ Governor provides for clearance of debris or wreckage pursuant to subsections (a) or (b) of this section, employees of the designated ~~state~~ State agencies or individuals appointed by the ~~state~~ State are authorized to enter upon private land or waters and perform any tasks necessary to the removal or clearance operation.

(d) Except in cases of willful misconduct, gross negligence, or bad faith, any ~~state~~ State employee or agent complying with orders of the ~~governor~~ Governor and performing duties pursuant ~~thereto~~ to the Governor's orders under this chapter shall not be liable for death of or injury to persons or damage to property.

(e) The ~~governor~~ Governor is authorized to ~~make~~ adopt rules and ~~regulations~~ to carry out the purposes of this chapter.

Sec. 125. 20 V.S.A. § 37 is amended to read:

§ 37. STATE FINANCIAL PARTICIPATION IN GRANTS TO DISASTER  
VICTIMS

(a) Whenever the president, at the request of the ~~governor~~ Governor, has declared a major disaster to exist in this ~~state~~ State, the ~~governor~~ Governor is authorized:

\* \* \*

(2) To enter into an agreement with the federal government, or any officer or agency ~~thereof~~ of the federal government, under which the ~~state~~ State is to participate in the funding of the financial assistance authorized in subdivision (1) of this subsection, in an amount not to exceed 25 percent ~~thereof~~ of the amount of financial assistance and, if ~~state~~ State funds are not otherwise available to the ~~governor~~ Governor, to accept an advance of the ~~state~~ State share from the federal government to be repaid when the ~~state~~ State is able to do so.

(b) Notwithstanding any other provision of law or regulation, the ~~governor~~ Governor is authorized to make financial grants to meet disaster-related necessary expenses or serious needs of individuals or families adversely affected by a major disaster ~~which~~ that cannot otherwise adequately be met from other means of assistance, which shall not exceed \$5,000.00 in the aggregate to an individual or family in any single major disaster declared by the president.

(c) The ~~governor~~ Governor shall ~~make such regulations~~ adopt rules as are necessary ~~for carrying~~ to carry out the purposes of this chapter, including, ~~but~~

~~not limited to~~, standards of eligibility for persons applying for benefits;  
procedures for applying and administration; methods of investigation, filing,  
and approving applications; and formation of local or statewide boards to pass  
upon applications and procedures for appeals.

\* \* \*

Sec. 126. 20 V.S.A. § 38 is amended to read:

§ 38. SPECIAL FUNDS

(a)(1) There is created a ~~radiological emergency response plan fund~~  
Radiological Emergency Response Plan Fund, into which any entity operating  
a nuclear reactor or storing nuclear fuel and radioactive waste in this ~~state~~ State  
(~~referred to hereinafter as “the nuclear power plant”~~) shall deposit the amount  
appropriated to support the Vermont radiological response plan for that fiscal  
year, adjusted by any balance in the ~~radiological emergency response plan fund~~  
Radiological Emergency Response Plan Fund from the prior fiscal year. There  
shall also be deposited into the ~~fund~~ Fund any monies received from any other  
source, public or private, that is intended to support the radiological emergency  
response planning process. The ~~fund~~ Fund shall be managed in accordance  
with ~~subchapter 5 of chapter 7 of Title 32 V.S.A. chapter 7, subchapter 5.~~ Any  
interest earned on the balance in the ~~fund~~ Fund shall be retained by the ~~fund~~  
Fund.

(2) Expenditures from the ~~fund~~ Fund shall be made by the ~~division of emergency management~~ Division of Emergency Management, subject to an annual legislative appropriation. As part of the annual appropriations process, the ~~division of emergency management~~ Division of Emergency Management shall present a budget for the ensuing fiscal year that anticipates the expenditures that will be made from the ~~fund~~ Fund. Each fiscal year, the ~~division of emergency management~~ Division of Emergency Management in collaboration with the ~~state~~ State and local agencies, the management of the nuclear power plant, the selectboards of the municipalities in the emergency planning zone, the Windham regional planning commission, and any other municipality or emergency planning zone entity defined by the ~~state~~ State as required to support the radiological emergency response plan shall develop the budget for expenditures from the ~~radiological emergency response plan fund~~ Radiological Emergency Response Plan Fund. State personnel with responsibility for local coordination and plan development shall be physically located in the region. The annual budget shall include only expenditures necessary to support the radiological emergency response plan.

(3) [Repealed.]

(4) [~~Deleted.~~] [Repealed.]

(5) The ~~state~~ State shall bill the nuclear power plant on a monthly basis based on the budget presented and approved by the ~~legislature~~ General

Assembly. The nuclear power plant shall have the right to audit the books and records of the ~~fund~~ Fund.

(6) Upon the permanent cessation of operation of the nuclear reactor and final removal of all nuclear fuel and radioactive waste, and the removal of emergency response plan ~~regulations~~ rules and ~~state~~ State responsibilities applicable to it by the Federal Nuclear Regulatory Commission and any other federal agency having regulatory jurisdiction, and after all outstanding debts have been paid, all monies remaining in the ~~fund~~ Fund shall be repaid to the nuclear power plant, and the ~~fund~~ Fund terminated.

(b) There is created a ~~hazardous chemical and substance emergency response fund~~ which Hazardous Chemical and Substance Emergency Response Fund that shall include all ~~moneys~~ monies paid to the ~~state~~ State pursuant to section 39 of this title. The ~~fund~~ Fund shall be managed pursuant to the provisions of ~~subchapter 5 of chapter 7 of Title 32 V.S.A. chapter 7,~~ subchapter 5. The ~~fund~~ Fund shall be used to implement and administer this chapter, including planning, training, and response activities as well as the purchase of equipment and assisting local organizations referred to in section 6 of this chapter to develop emergency response plans. Each local emergency planning committee shall receive a minimum grant of \$1,500.00, and \$4,000.00 as of July 1, 2007, annually and may petition the ~~state emergency response commission~~ State Emergency Response Commission for additional

funds if needed and available. After disbursement of the minimum grant amounts and after consideration of the comments and evaluation received from the appropriate local emergency planning committee, the ~~commissioner~~ Commissioner with the approval of the ~~emergency response commission~~ Emergency Response Commission may make additional grants from the ~~fund~~ Fund to any local emergency planning committee or regional emergency response commission as well as to any political subdivisions including any city, town, fire district, incorporated village, and other incorporated entities in the ~~state~~ State in accordance with rules adopted by the ~~state emergency response commission~~ State Emergency Response Commission. Unless waived by the ~~state emergency response commission~~ State Emergency Response Commission, grants shall be matched by local governments in the amount of 25 percent of the grant. The matching may be by contribution or by privately furnished funds or by in-kind services, space, or equipment ~~which~~ that would otherwise be purchased by a local emergency planning committee.

Sec. 127. 20 V.S.A. § 46 is amended to read:

§ 46. DISASTER RELIEF WORKERS FUND; HEALTH CARE  
PROVIDERS; REIMBURSEMENT

\* \* \*

(b) All monies received by or generated to the Fund shall be used to provide wage reimbursement to any public or private Vermont employer for

disaster relief services rendered by its employee. The employee shall be a certified disaster relief service volunteer of the American Red Cross.

Reimbursement shall be for not more than 14 days for performing disaster relief work pursuant to a request from the American Red Cross when:

(1) the work is performed in Vermont;

(2) the disaster is a federal or presidentially declared disaster designated as Level III or above, according to the American Red Cross ~~regulations~~ rules and procedures; or

(3) the disaster is declared by the governor of a state or territory.

\* \* \*

Sec. 128. 20 V.S.A. § 151 is amended to read:

§ 151. AGREEMENTS OR COMPACTS

Pursuant to the provisions and authority of Congress, as amended by ~~Public Law 564, 84th Congress~~ Pub. L. No. 84-564, 42 U.S.C. §§ 5195a and 5196, the ~~governor~~ Governor is authorized to enter into, amend, supplement, and implement agreements or compacts with the executive authorities of other states, including the ~~emergency management assistance compact~~ Emergency Management Assistance Compact, providing for mutual-military aid, disaster relief, hazard mitigation, and emergency preparedness and related matters ~~incidental thereto~~, in case of hazard or natural disaster, invasion or other

hostile action, disaster, insurrection, or the imminent danger thereof of such an event.

Sec. 129. 20 V.S.A. § 152 is amended to read:

§ 152. PROVISIONS

~~Such agreements~~ Agreements or compacts entered into pursuant to this chapter may include ~~but shall not be limited to~~ provisions for joint military action against a common enemy; for the protection of bridges, tunnels, ferries, pipelines, communication facilities, and other vital installations, plants, and facilities; for the military support of civil defense agencies; for the fresh pursuit, by the ~~organized militia~~ National Guard or other state military forces or any part ~~thereof~~ of such forces, of a signatory into the jurisdiction of any other signatory, of persons acting or appearing to act in the interest of an enemy government, or seeking or appearing to seek to overthrow the government of the United States or of any signatory; for the powers, duties, rights, privileges, and immunities of the members of the ~~organized militia~~ National Guard or military forces of any signatory while so engaged outside their own jurisdictions; for ~~such other matters as are~~ to matters of a military nature that the governor may deem Governor deems necessary or proper to promote the health, safety, and welfare of the people of this ~~state~~ State; for the allocation of all costs and

expenses arising from the planning and operation of such agreements or compacts.

Sec. 130. 20 V.S.A. § 153 is amended to read:

§ 153. CONSTRUCTION

Nothing contained in sections 151 and 152 of this title shall be construed ~~or interpreted as expressing a~~ as a direct or indirect limitation, ~~directly or indirectly,~~ of the power of the ~~governor~~ Governor to enter into, and to amend or supplement such compacts, with legal force and effect and without the legislative authorization expressed ~~herein~~ in this chapter.

Sec. 131. 20 V.S.A. § 181 is amended to read:

§ 181. STATEMENT OF POLICY

Because of the existing possibility of a catastrophic incident in the United States of unprecedented size and destructiveness, and in order, in the event of a catastrophic incident, to ~~assure~~ ensure continuity of government through legally constituted leadership, authority, and responsibility in offices of the government of the ~~state~~ State and its political subdivisions; to provide for the effective operation of governments during an emergency; and to facilitate the early resumption of functions temporarily suspended, it is found and declared to be necessary to provide for additional officers who can exercise the powers and discharge the duties of ~~governor~~ Governor; to provide for emergency interim succession to offices of this ~~state~~ State in the event the incumbents

~~thereof~~ of those offices, and their deputies, assistants, or other subordinate officers authorized, pursuant to law, to exercise the powers and discharge the duties of such offices (~~hereinafter referred to as~~ deputies) are unavailable to perform the duties and functions of such offices; and to provide for special emergency district judges who can exercise the powers and discharge the duties of such judges in the event regular judges are unavailable.

Sec. 132. 20 V.S.A. § 184 is amended to read:

§ 184. EMERGENCY INTERIM SUCCESSORS FOR STATE OFFICES

All ~~state~~ State officers, subject to such exceptions and ~~regulations~~ rules as the ~~governor~~ (Governor, or other official authorized under the ~~constitution~~ Constitution and this chapter or other act to exercise the powers and discharge the duties of the office of, or to act as, ~~governor~~) Governor, may issue, shall, ~~within 60 days after the approval of this chapter, and thereafter~~ immediately after the date that they ~~shall~~ have been appointed and qualified, in addition to any deputy authorized pursuant to law, designate by title emergency interim successors and specify their order of succession. The officer shall, each year, review and ~~shall~~ revise, as necessary, designations made pursuant to this chapter to ~~insure~~ ensure his or her current status. Forthwith after such designations are made and after a revision ~~thereof~~ of the designations, the officer shall file copies in the offices of both the ~~governor~~ Governor and the ~~secretary of state~~ Secretary of State. The officer shall designate a sufficient

number of such emergency interim successors so that, including deputies, there will be not less than five emergency interim successors. In the event that any ~~state~~ State officer ~~(, or his or her deputy),~~<sub>2</sub> is unavailable, the ~~said~~ powers of the office shall be exercised and ~~said~~ its duties shall be discharged by his or her designated emergency interim successors in the order specified. ~~Such~~ The emergency interim successors shall exercise ~~said~~ the powers and discharge ~~said~~ the duties only until such time as the ~~governor~~ Governor, or other official authorized under the ~~constitution~~ Constitution and this chapter or other act to exercise the powers and discharge the duties of the office of, or to act as, ~~governor~~ Governor, shall, where a vacancy exists, appoint a successor to fill the vacancy or until a successor is otherwise appointed, or elected and qualified as provided by law; or an officer ~~(, or his or her deputy or a preceding named emergency interim successor),~~<sub>2</sub> becomes available to resume the exercise of the powers and discharge the duties of his or her office.

Sec. 133. 20 V.S.A. § 185 is amended to read:

§ 185. EMERGENCY INTERIM SUCCESSORS FOR LOCAL ELECTED  
OFFICERS

The elected officers of political subdivisions shall, ~~within 60 days after the approval of this chapter, and thereafter~~ immediately after the date that they shall have been appointed and qualified, designate by title ~~(, if feasible),~~<sub>2</sub> or by named person, emergency interim successors and specify their order of

succession. The officer shall, each year, review and ~~shall~~ revise, as necessary, designations made pursuant to this chapter to ~~insure~~ ensure their current status. The officer shall designate a sufficient number of persons so that, including deputies, there will be not less than three emergency interim successors. ~~Forthwith~~ Promptly after ~~such~~ the designations are made, and after a revision ~~thereof~~ of the designations, copies shall be filed in the office of the county clerk. In the event that any officer of any political subdivision ~~(, or his or her deputy provided for pursuant to law),~~ is unavailable, the powers of the office shall be exercised and duties shall be discharged by his or her designated emergency interim successors in the order specified. The emergency interim successors, in the order specified, shall exercise the powers and discharge the duties of the office to which designated until such time as a vacancy ~~which may exist~~ shall be that exists is filled in accordance with the ~~constitution~~ Constitution or statutes; or until the officer ~~(, or his or her deputy or a preceding emergency interim successor),~~ again becomes available to exercise the powers and discharge the duties of his or her office.

Sec. 134. 20 V.S.A. § 187 is amended to read:

§ 187. SPECIAL EMERGENCY JUDGES

In the event that any ~~district~~ Superior judge is unavailable to exercise the powers and discharge the duties of his or her office, the duties of the office shall be discharged and the powers exercised by one of three special

emergency judges residing in the district served by ~~such~~ the judge, and designated by him or her ~~within 60 days after the approval of this chapter, and thereafter~~ immediately after the date that he or she shall have been appointed and qualified as such. ~~Such~~ The special emergency judges shall, in the order specified, exercise the powers and discharge the duties of ~~such~~ the office in case of the unavailability of the regular judge or persons immediately preceding them in the designation. The designating authority shall, each year, review and ~~shall~~ revise, as necessary, designations made pursuant to this chapter to ~~insure~~ ensure their current status. ~~Forthwith~~ Promptly after ~~such~~ the designations are made and after a revision ~~thereof~~ of the designations copies shall be filed in the offices of the ~~governor~~ Governor and the county clerk. ~~Said~~ The emergency special judges shall discharge the duties and exercise the powers of ~~such~~ the office until such time as a vacancy ~~which may exist shall be that exists is~~ filled in accordance with the ~~constitution~~ Constitution and statutes or until the regular judge or one preceding the designee in the order of designation becomes available to exercise the powers and discharge the duties of his or her office. While exercising the powers and discharging the duties of the office of a ~~district~~ Superior judge a special emergency judge shall receive the pro rata salary and perquisites ~~thereof~~ of the office.

Sec. 135. 20 V.S.A. § 189 is amended to read:

§ 189. PERIOD IN WHICH AUTHORITY MAY BE EXERCISED

Officials authorized to act as ~~governor~~ Governor pursuant to this chapter, emergency interim successors, and special emergency judges shall be authorized to exercise the powers and discharge the duties of an office as ~~herein~~ authorized by this chapter only in the event that a catastrophic incident in the United States or Canada has occurred. The ~~governor~~ Governor by proclamation, or the ~~general assembly~~ General Assembly by concurrent resolution, may at any time terminate the authority of ~~said~~ the emergency interim successors and special emergency judges to exercise the powers and discharge the duties of office as ~~herein~~ provided by this chapter, subject to the filling of any vacancy or subject to the respective officers and judges becoming available.

Sec. 136. [Deleted.]

Sec. 137. [Deleted.]

Sec. 138. [Deleted.]

Sec. 139. [Deleted.]

Sec. 140. [Deleted.]

Sec. 141. [Deleted.]

Sec. 142. [Deleted.]

Sec. 143. [Deleted.]

Sec. 144. [Deleted.]

Sec. 145. [Deleted.]

Sec. 146. 20 V.S.A. § 1543 is amended to read:

§ 1543. PREFERENCES IN APPOINTMENT TO STATE POSITIONS

In certification for appointment, in appointment, in employing, in retention of employment position, whether in classified or unclassified civil service, whether for temporary or for extended time, wherever ~~state~~ State funds furnish the payroll, preference shall be given to:

(1) ~~those~~ ex-service personnel who ~~have~~ served on active duty in any branch of the ~~armed forces of the United States~~ U.S. Armed Forces and have been separated ~~therefrom~~ from active duty under honorable conditions and who have established the present existence of a service-connected disability or who are receiving compensation, or disability retirement benefits by reason of public laws administered by the ~~veterans administration~~ U.S. Department of Veterans Affairs, or the ~~department of defense~~ U.S. Department of Defense;

(2) ~~the~~ spouses of ~~such~~ service-connected disabled ~~ex-servicemen or women as~~ ex-service personnel who have themselves been unable to qualify for any civil service appointment by reason of their disability;

(3) ~~the~~ unmarried widows or widowers of deceased ex-service personnel who served on active duty in ~~any branch of the armed forces of the United States~~ the U.S. Armed Forces during any war, or in any campaign or

expedition (for which a campaign badge has been authorized), or during the period specified in subdivision (5) of this section and who were separated ~~therefrom~~ from active duty under honorable conditions; and

(4) ~~those~~ ex-service personnel who ~~have~~ served on active duty in ~~any branch of the armed forces of the United States~~ the U.S. Armed Forces, during any war, or in any campaign or expedition (for which a campaign badge has been authorized), and have been separated ~~therefrom~~ from active duty under honorable conditions; and

(5) ~~those~~ ex-service personnel who have served on active duty in ~~any branch of the armed forces of the United States~~ the U.S. Armed Forces during the period beginning July 1, 1955, and have been separated from the ~~armed forces~~ U.S. Armed Forces under honorable conditions.

Sec. 147. 20 V.S.A. § 1545 is amended to read

§ 1545. VERMONT DISTINGUISHED SERVICE MEDALS

(a) The ~~governor~~ Governor may present in the name of the ~~state~~ State of Vermont a distinguished service medal, ribbon, lapel button, and certificate to an individual or the individual's spouse, child, parent, sibling, or grandchild if the individual is deceased, provided the individual meets all the following eligibility criteria:

(1) Served on federal active duty in the U.S. Armed Forces in a combat theater of operations during a war or emergency ~~as a member of the federal~~

~~active-duty military~~, as evidenced by service during any period of war prior to April 6, 1916; foreign service during World War I or World War II; or receipt of federal decorations showing combat-related service since January 1, 1947.

(2) Received an honorable discharge from ~~the federal active-duty military~~ federal active duty in the U.S. Armed Forces or died before separating from ~~the federal active-duty military~~ federal active duty in the U.S. Armed Forces or was declared missing in action by the ~~United States~~ U.S. Department of Defense; or is currently a member in good standing ~~in the federal active-duty military~~ on federal active duty in the U.S. Armed Forces with more than four years of service.

(3) Is a current resident of Vermont or was a resident of Vermont at the time of entry into military service or was mobilized to federal active duty while a member of the Vermont National Guard or other reserve unit located in Vermont, regardless of the resident's home of record.

(b) The distinguished service medal shall conform to MIL-DTL-3943 and the ~~state~~ State specification sheets; the ribbon shall conform to MIL-DTL-11589 as to quality and construction; and the lapel button shall conform to MIL-DTL-11484. The ~~state~~ State specification sheets and original model shall be kept by the ~~secretary of state~~ Secretary of State.

(c) Application for a distinguished service medal may be made to the ~~office of veterans' affairs~~ Office of Veterans' Affairs. The ~~office of veterans' affairs~~

Office of Veterans' Affairs shall also design, cast, and procure the distinguished service medals, and maintain and verify records and documents pertaining to the medals and awards. Approved applicants may choose to receive the medal by mail or in a ceremony with the ~~governor~~ Governor or a representative of the ~~governor~~ Governor.

Sec. 148. 20 V.S.A. § 1546 is amended to read:

§ 1546. VERMONT VETERANS' MEDAL

(a) The ~~office of veterans' affairs~~ Office of Veterans' Affairs may present in the name of the ~~state~~ State of Vermont a veterans' medal, ribbon, lapel button, and certificate to an individual or the individual's spouse, child, parent, sibling, or grandchild if the individual is deceased and the individual meets the following eligibility criteria:

(1) ~~Completed~~ completed a minimum two-year tour of ~~federal active military duty~~ federal active duty in the U.S. Armed Forces, unless discharged for the convenience of the government or retired from a reserve ~~military~~ component of the U.S. Armed Forces, and received an honorable discharge, died before separating from the ~~federal active duty military~~ federal active duty in the U.S. Armed Forces, or was declared missing in action by the ~~United States~~ U.S. Department of Defense; or the individual is currently on ~~federal active military duty~~ federal active duty in the U.S. Armed Forces and in good standing with more than four years of service; and

(2) ~~Is~~ is a current resident of Vermont, a resident of Vermont at the time of entry into military service, or was mobilized to federal active duty while a member of the Vermont National Guard or other reserve unit located in Vermont, regardless of the individual's home of record.

(b) The veterans' medal shall conform to MIL-DTL-3943 and the ~~state~~ State specification sheets, and shall be as follows: the obverse shall be a relief replica of the coat of arms of the ~~state~~ State of Vermont, and shall have the words "Vermont National Defense" in a circular style with "1777" at the bottom and centered. The great seal of Vermont shall be the model for the reverse side. The ribbon shall conform to MIL-DTL-11589 as to quality and construction, and shall consist of the four primary colors of the Vermont coat of arms: green, blue, yellow, and red. The lapel button shall conform to MIL-DTL-11484. The ~~state~~ State specification sheets and original model shall be kept by the ~~secretary of state~~ Secretary of State.

(c) Application for a veterans' medal will be made to the ~~office of veterans' affairs~~ Office of Veterans' Affairs. The ~~office of veterans' affairs~~ Office of Veterans' Affairs shall also design, cast, and procure the veterans' medals and maintain and verify records and documents pertaining to the medals. Approved applicants may choose to receive the medal by mail or in a ceremony with a representative of the ~~state~~ State of Vermont.

Sec. 149. 20 V.S.A. § 1585 is amended to read:

§ 1585. CEMETERY DESIGN

The Vermont ~~veterans' memorial cemetery~~ Veterans' Memorial Cemetery identified by section 1584 of this title shall be of contemporary design prepared by an experienced cemetery landscape architect, may accommodate approximately 1,000 graves per acre, and shall allow for freedom of choice by the family of a veteran, a veteran's spouse, and a veteran's minor child, who will be interred, of an upright or flat memorialization to mark the grave.

Preference shall be given to the use of Vermont granite, Vermont slate, and Vermont marble for all memorialization. The ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services shall request and facilitate the availability of memorialization from the ~~United States~~ U.S. Department of Veterans' Affairs.

Sec. 150. 20 V.S.A. § 1813 is amended to read:

§ 1813. LAW ENFORCEMENT DUTIES GENERALLY

The ~~department~~ Department shall, in addition to ~~such the~~ the other law enforcement duties ~~as are hereinafter~~ set forth in this title, administer and enforce the law pertaining to the following subjects:

- (1) The patrol of highways and the operation of traffic thereon;
- (2) ~~The identification and records division;~~ [Repealed.]
- (3) ~~The office of state fire marshal~~ Office of the State Fire Marshal.

Sec. 151. 20 V.S.A. § 1821 is amended to read:

§ 1821. MISSING PERSON COMPLAINT

\* \* \*

(b) All law enforcement personnel on active duty shall be promptly notified ~~forthwith~~ that the person is missing.

Sec. 152. 20 V.S.A. § 1822 is amended to read:

§ 1822. MISSING PERSON REPORT

Upon receiving a complaint, the law enforcement agency shall ~~forthwith~~ promptly prepare a missing person report. The report shall include all information contained in the missing person complaint and any information or evidence gathered by a preliminary investigation, if one was made.

Sec. 153. 20 V.S.A. § 1823 is amended to read:

§ 1823. DISSEMINATION OF MISSING PERSON REPORT

(a) Upon completion of the report, a copy shall ~~forthwith~~ promptly be forwarded to the Commissioner of Public Safety, all law enforcement agencies within the jurisdiction where the missing person lives or was last seen, and other law enforcement agencies that can reasonably be expected to be involved in any investigation.

\* \* \*

Sec. 154. 20 V.S.A. § 1872 is amended to read:

§ 1872. DUTIES OF COMMISSIONER GENERALLY

The ~~commissioner~~ Commissioner shall be the chief enforcement officer of all the statutes, and rules ~~and regulations~~ pertaining to the law of the road and the display of lights on vehicles. In addition, the ~~commissioner~~ Commissioner shall supervise and direct the activities of the ~~state police~~ State Police and of the Vermont ~~criminal information center~~ Crime Information Center and, as ~~fire marshal~~ Fire Marshal, be responsible for enforcing the laws pertaining to the investigation of fires, the prevention of fires, the promotion of fire safety, and the delivery of fire service training.

Sec. 155. 20 V.S.A. § 1874 is amended to read:

§ 1874. ORGANIZATION OF DEPARTMENT BY COMMISSIONER

(a) The ~~commissioner~~ Commissioner, with the approval of the ~~governor~~ Governor, shall so organize and arrange the ~~department~~ Department as will best and most efficiently promote its work and carry out the objectives of this chapter. To that end, the ~~commissioner~~ Commissioner may, with ~~such~~ the Governor's approval, create, rearrange, and abolish divisions, establish grades, ranks, and positions to be held by members, and formulate, put into effect, alter, and repeal rules ~~and regulations~~ for the administration of the ~~department~~ Department.

(b) The ~~commissioner~~ Commissioner may, ~~from time to time~~, in accordance with the rules adopted by him or her, designate or change the rank or grade to be held by a member. The ~~commissioner~~ Commissioner may assign or transfer members to serve at such stations and, within the limits of this chapter or other existing law, to perform such duties as he or she shall designate. The ~~commissioner~~ Commissioner may determine what members other than ~~state police~~ State Police shall give bonds, and prescribe the conditions and amount of the bonds.

Sec. 156. 20 V.S.A. § 1876 is amended to read:

§ 1876. HEADQUARTERS AND STATIONS; EQUIPMENT

The ~~commissioner~~ Commissioner shall, ~~from time to time~~, establish headquarters and stations in such localities as he ~~shall deem~~ or she deems advisable for the enforcement of the laws of the ~~state~~ State, and to that end, within the limits of appropriations, he or she may lease, or otherwise acquire, in the name of the ~~state~~ State the right to use and maintain lands and buildings, and may purchase or otherwise acquire horses, motor equipment, and other supplies including radio and all other equipment and services ~~deemed by him~~ the Commissioner deems essential for the needs of the ~~department~~ Department or its members in carrying out their duties. The ~~commissioner~~ Commissioner may discontinue a headquarters or station, where he or she determines such action ~~seems to him~~ to be desirable. The ~~commissioner~~ Commissioner may

sell such property as shall have become unnecessary or unfit for further use, and all ~~moneys~~ monies received ~~therefor~~ from the sale shall be paid into the ~~state treasury~~ State Treasury and credited to the appropriation for the ~~department~~ Department.

Sec. 157. 20 V.S.A. § 1913 is amended to read:

§ 1913. UNIFORMS AND EQUIPMENT

Within the appropriation for the ~~department~~ Department, the ~~commissioner~~ Commissioner shall provide the ~~state police~~ State Police, and such other members as he or she may designate, with uniforms and all members with the equipment necessary in the performance of their respective duties, which shall remain the property of the ~~state~~ State. The ~~commissioner~~ Commissioner may sell such equipment as may become unfit for use, and all monies received ~~therefor~~ from the sale shall be paid into the ~~state treasury~~ State Treasury and credited to the ~~department~~ Department's appropriation. The ~~commissioner~~ Commissioner shall keep an inventory and shall charge against each member all property of the ~~department~~ Department issued to him or her, and if the ~~commissioner~~ Commissioner shall determine that a loss or destruction was due to the carelessness or neglect of the member, the value of ~~such~~ the property shall be deducted from his or her pay.

Sec. 158. 20 V.S.A. § 1914 is amended to read:

§ 1914. POWERS AND IMMUNITIES

The ~~commissioner of public safety~~ Commissioner of Public Safety and the ~~state police~~ State Police shall be peace officers and shall have the same powers with respect to criminal matters and the enforcement of the law relating ~~thereto~~ to criminal matters as sheriffs, constables, and local police have in their respective jurisdictions, and shall have all the immunities and matters of defense now available or hereafter made available to sheriffs, constables, and local police in a suit brought against them in consequence of acts done in the course of their employment. ~~State police~~ Police shall be informing or complaining officers with the same powers possessed by sheriffs, deputy sheriffs, constables, or police officers of a city or incorporated village as provided in 13 V.S.A. § 5507.

Sec. 159. 20 V.S.A. § 2054 is amended to read:

§ 2054. UNIFORM REPORTS

(a) The ~~center~~ Center shall provide ~~state~~ State departments and agencies, municipal police departments, sheriffs, and other law enforcement officers with uniform forms for the reporting of the commission of crimes, arrests, convictions, imprisonment, probation, parole, fingerprints, missing persons, fugitives from justice, stolen property, and such other matters as the ~~commissioner~~ Commissioner deems relevant. The ~~commissioner of public~~

~~safety~~ Commissioner of Public Safety shall adopt ~~regulations~~ rules relating to the use, completion, and filing of the uniform forms and to the operation of the ~~center~~ Center.

(b) A department, agency, or law enforcement officer who fails to comply with the ~~regulations~~ rules adopted by the ~~director~~ Commissioner with respect to the use, completion, or filing of the uniform forms, after notice of failure to comply, shall be fined not more than \$100.00. Each such failure shall constitute a separate offense.

Sec. 160. 20 V.S.A. § 2056a is amended to read:

§ 2056a. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO  
CRIMINAL JUSTICE AGENCIES

(a) As used in this section:

(1) “Criminal history record” means all information documenting an individual’s contact with the criminal justice system, including data regarding identification, arrest or citation, arraignment, judicial disposition, custody, and supervision.

(2) “Criminal justice agencies” means all Vermont courts and other governmental agencies or subunits ~~thereof~~ of governmental agencies that allocate at least 50 percent of the agency’s annual appropriation to criminal justice purposes.

(3) “Criminal justice purposes” means the investigation, apprehension, detention, adjudication, or correction of persons suspected, charged, or convicted of criminal offenses. Criminal justice purposes shall also include criminal identification activities; the collection, storage, and dissemination of criminal history records; and screening for criminal justice employment.

(4) “~~The center~~ Center” means the Vermont ~~crime information center~~ Crime Information Center.

(b) A criminal justice agency may request a person’s criminal history record from the center for criminal justice purposes or other purposes authorized by ~~state~~ State or federal law. Upon the request of a criminal justice agency, the ~~center~~ Center shall prepare and release a person’s Vermont criminal history record, provided that the criminal justice agency has filed a user’s agreement with the ~~center~~ Center. The user’s agreement shall require the criminal justice agency to comply with all federal and ~~state~~ State laws, rules, regulations, and policies regulating the release of criminal history records and the protection of individual privacy. The user’s agreement shall be signed and kept current by the agency.

(c) A criminal justice agency may obtain criminal history records from other states and the Federal Bureau of Investigation through the ~~center~~ Center, provided that the criminal justice agency has filed a user’s agreement with the ~~center~~ Center. Release of interstate and Federal Bureau of Investigation

criminal history records to criminal justice agencies is subject to the rules and regulations of the Federal Bureau of Investigation's National Crime Information Center.

(d) A criminal history record obtained from the ~~center~~ Center shall be admissible evidence in the courts of this ~~state~~ State.

\* \* \*

(f) A person who violates the provisions of this section with respect to unauthorized disclosure of confidential criminal history record information obtained from the ~~center~~ Center under the authority of this section shall be fined not more than \$5,000.00. Each unauthorized disclosure shall constitute a separate civil violation.

Sec. 161. 20 V.S.A. § 2056b is amended to read:

§ 2056b. DISSEMINATION OF CRIMINAL HISTORY RECORDS TO  
PERSONS CONDUCTING RESEARCH

(a) The Vermont Crime Information Center may provide Vermont criminal history records as defined in section 2056a of this title to bona fide persons conducting research related to the administration of criminal justice, subject to conditions approved by the Commissioner of Public Safety to ~~assure~~ ensure the confidentiality of the information and the privacy of individuals to whom the information relates. Bulk criminal history data requested by descriptors other than the name and date of birth of the subject may only be provided in a format

that excludes the subject's name and any unique numbers that may reference the identity of the subject, except that court docket numbers and the State identification number may be provided. Researchers shall sign a user agreement that specifies data security requirements and restrictions on use of identifying information.

\* \* \*

Sec. 162. 20 V.S.A. § 2064 is amended to read:

§ 2064. SUBSCRIPTION SERVICE

(a) As used in this section:

(1) "State Identification Number (SID)" means a unique number generated by the ~~center~~ Center to identify a person in the criminal history database.

(2) "Subscription service" means a service provided by the ~~center~~ Center ~~whereby~~ through which authorized requestors may be notified when an individual's criminal record is updated.

(b) The ~~center~~ Center shall provide the ~~department for children and families~~ Department for Children and Families and education officials authorized under ~~subchapter 4 of chapter 5 of Title 16 V.S.A. chapter 5, subchapter 4~~ to receive criminal records access to a criminal record subscription service. Authorized persons may subscribe to an individual's SID number, provided the individual

has given written authorization on a release form provided by the ~~center~~  
Center.

(c) The release form shall contain the individual's name, signature, date of birth, and place of birth. The release form shall state that the individual has the right to appeal the findings to the ~~center~~ Center, pursuant to rules adopted by the ~~commissioner of public safety~~ Commissioner of Public Safety.

(d) The ~~center~~ Center shall provide authorized officials with information regarding the subscription service offered by the ~~center~~ Center prior to being authorized to participate in the subscription service. The materials shall address the following topics:

\* \* \*

(e) Authorized officials shall certify on their subscription request that they have read and understood materials prior to receiving authorization to request a subscription from the ~~center~~ Center.

(f) During the subscription period, the ~~center~~ Center shall notify authorized officials in writing if new criminal conviction information is added to an individual's criminal history record. Notification may be sent electronically.

\* \* \*

(h) Except insofar as criminal conviction record information must be retained or made public pursuant to ~~chapter 51 of Title 16 V.S.A. chapter 51~~ or the ~~state board of education~~ State Board of Education administrative rules

~~promulgated thereunder~~ adopted pursuant to that chapter, no person shall confirm the existence or nonexistence of criminal conviction record information or disclose the contents of a criminal conviction record without the individual's permission to any person other than the individual and properly designated employees of the authorized education official who have a documented need to know the contents of the record.

(i) Except insofar as criminal conviction record information must be retained or made public pursuant to ~~chapter 51 of Title 16 V.S.A.~~ chapter 51 or the ~~state board of education~~ State Board of Education administrative rules ~~promulgated thereunder~~ adopted pursuant to that chapter, authorized education officials shall confidentially retain all criminal conviction information received pursuant to this section for a period of three years. At the end of the retention period, the criminal conviction information must be shredded.

(j) A person who violates any subsection of this section shall be assessed a civil penalty of not more than \$5,000.00. Each unauthorized disclosure shall constitute a separate civil violation. The ~~office of the attorney general~~ Attorney General shall have authority to enforce this section.

Sec. 163. 20 V.S.A. § 2364 is amended to read:

§ 2364. STATE POLICE, BASIC TRAINING

Basic training programs for Vermont ~~state police~~ State Police officers, including curriculum, location, duration, and selection of instructors and other

personnel, shall be developed and conducted by the ~~commissioner of public safety~~ Commissioner of Public Safety and submitted to the ~~criminal justice training council~~ Criminal Justice Council for approval in accordance with the minimum standards ~~promulgated~~ adopted by rule under this chapter.

Sec. 164. 20 V.S.A. § 2403 is amended to read:

§ 2403. LAW ENFORCEMENT AGENCIES; DUTY TO REPORT

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

(A) Category A.

\* \* \*

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

(B) Category B.

\* \* \*

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

\* \* \*

(II) any decision or findings, including findings of fact or verdict, regarding allegations that the officer committed Category B conduct,

including a hearing officer decision, arbitration, administrative decision, or judicial decision, and any appeal ~~therefrom~~ from such a decision.

\* \* \*

Sec. 165. 20 V.S.A. § 2488 is amended to read:

§ 2488. BOARD OF TAX ABATEMENT

The board for the abatement of taxes of a fire district shall consist of the prudential committee, the clerk ~~thereof~~ of the committee, the justices of the peace, and listers residing ~~therein~~ in the district. ~~Such~~ The board may abate taxes accruing to such municipality in all cases where a different provision is not made by the charter, acts of incorporation, or amendments ~~thereto~~, to the charter or acts of incorporation of ~~such~~ the municipality.

Sec. 166. 20 V.S.A. § 2604 is amended to read:

§ 2604. PRESERVATION OF PROPERTY

In the name of the district, the prudential committee may make contracts and expenditures for the preservation of property in ~~such~~ the district from damage by fire as they deem necessary; and draw orders on the treasury ~~therefor~~ for that purpose. However, ~~such~~ the committee shall not bind the district for a greater sum than has been voted.

Sec. 167. 20 V.S.A. § 2606 is amended to read:

§ 2606. EMINENT DOMAIN

When a fire district decides to erect a building for the preservation of its fire apparatus and the location of land for ~~such~~ the building is determined, if the owner ~~thereof of the land~~ refuses to convey the ~~same~~ land to the district at a price ~~which such~~ that the district deems reasonable, ~~such~~ the district may take ~~such~~ the land in the same manner as a town may take land for town purposes as provided in 24 V.S.A. §§ ~~2805 to 2812~~ 2805–2812. The duties imposed by ~~such sections~~ 24 V.S.A. §§ 2805–2812 upon ~~selectmen~~ the selectboard shall be performed by the prudential committee of ~~such~~ the district. All petitions and notices shall be served on the clerk of ~~such~~ the district in lieu of on the town clerk as ~~therein~~ provided pursuant to 24 V.S.A. §§ 2805–2812.

Sec. 168. 20 V.S.A. § 2672 is amended to read:

§ 2672. ENFORCEMENT OF BYLAWS; ALTERATION AND REPAIR OF  
FIREPLACES, FURNACES, AND STOVES

The chief engineer may carry into effect any bylaw or ~~regulation~~ rule of the district; and may direct alterations in the position and repairs of fireplaces, furnaces, stoves, and other things from which damage from fire is apprehended. If ~~such~~ the directions are not complied with ~~forthwith~~ promptly, he or she may cause ~~such~~ the change or repairs to be made; and recover the

expense ~~thereof~~ of the change or repairs, with costs, ~~of~~ from the owner or possessor in a civil action in the name of the district.

Sec. 169. 20 V.S.A. § 2689 is amended to read:

§ 2689. FAILURE OF OFFICER TO PERFORM DUTY

An officer referred to in section 2831 of this title who ~~wilfully~~ intentionally neglects to comply with any of the requirements of this chapter shall be fined not more than \$100.00 nor less than \$10.00.

Sec. 170. 20 V.S.A. § 2732 is amended to read:

§ 2732. HISTORIC VARIANCE APPEALS BOARD; VARIANCES;

EXEMPTIONS

(a) ~~An historic variance appeals board~~ The Historic Variance Appeals Board is created. The ~~board~~ Board shall consist of the following three members: the ~~commissioner of public safety~~ Commissioner of Public Safety or designee, who shall be chair; the ~~state historic preservation officer~~ State Historic Preservation Officer or designee; and a representative of the Vermont historic preservation community appointed by the ~~governor~~ Governor. A ~~board~~ Board member who is not a ~~state~~ State employee shall be entitled to compensation and expenses as provided by 32 V.S.A. § 1010.

(b) The ~~board~~ Board shall hear and determine all requests for variances or exemptions from the rules adopted by the ~~commissioner~~ Commissioner under this subchapter for historic buildings and structures. A request for a variance

or exemption may be granted where an applicant has demonstrated that strict compliance would entail practical difficulty, or unnecessary hardship, or would damage or destroy the historic architectural integrity of the historic building or structure, or is otherwise found unwarranted, provided that:

(1) any such variance or exemption secures the public safety and health;

(2) any petitioner for such a variance or exemption can demonstrate that the methods, means, or practices proposed to be taken in lieu of compliance with the rule or rules provide, in the opinion of the ~~board~~ Board, equal protection of the public safety and health as provided by rule or rules;

(3) the rule or rules from which the variance or exemption is sought have not also been adopted as a rule or standard under ~~subchapters 4 and 5 of chapter 3 of Title 21 V.S.A. chapter 3, subchapters 4 and 5;~~ and

(4) any such variance or exemption does not violate any of the provisions of ~~chapters 3 and 20 of Title 26 V.S.A. chapters 3 and 20~~ or any rules adopted ~~thereunder~~ pursuant to those chapters.

(c) The ~~board~~ Board may permit a person seeking a variance or exemption to phase in compliance with the rules adopted under this subchapter in lieu of or in addition to granting the variance or exemption requested. The period of phased in compliance shall be reasonable but shall state a date by which compliance shall be achieved.

(d) Any person seeking a variance or exemption for work involving an historic building shall file a written request with the ~~commissioner~~ Commissioner. The request shall describe the rule or rules from which the variance or exemption is sought, the reasons why a variance or exemption is sought, and a description as to how any alternative means of protecting the public safety and health is to be provided. The ~~board~~ Board shall meet and consider such requests within 15 working days of the request being filed with the ~~commissioner~~ Commissioner. In deciding whether to grant or deny the request, the ~~board~~ Board shall take testimony or receive information from the applicant or his or her representatives, and from ~~fire safety division~~ Division of Fire Safety staff. A decision of the ~~board~~ Board based on a majority vote of those members present shall be binding. The ~~board~~ Board shall issue a written determination granting or denying, in whole or in part, any variance or exemption request, or permission to phase in compliance, within 60 days of hearing the request. If a grant is conditional, the condition shall be clearly stated in writing. Failure to act on a request within 60 days shall be deemed approval of the request, provided that the public safety and health is not imminently threatened.

(e) The ~~board~~ Board may adopt, amend, or repeal procedural rules to carry out the provisions of this section.

(f) The ~~board~~ Board is attached to the ~~department of public safety~~  
Department of Public Safety for administrative purposes.

(g) The ~~board~~ Board shall be subject to the requirements of ~~subchapters 2  
and 3 of chapter 5 of Title 1~~ V.S.A. chapter 5, subchapters 2 and 3.

Sec. 171. 20 V.S.A. § 2734 is amended to read:

§ 2734. PENALTIES

(a) A person who violates any provision of this subchapter or any order or rule issued pursuant ~~thereto~~ to this subchapter shall be fined not more than \$10,000.00. The ~~state's attorney~~ State's Attorney of the county in which ~~such~~ the violation occurs shall prosecute the violation and may commence a proceeding in the ~~superior court~~ Superior Court to compel compliance with ~~such~~ the order or rule, and ~~such~~ the court may make orders and decrees ~~therein~~ in relation to the proceeding by way of writ of injunction or otherwise.

(b) A person who fails to comply with a lawful order issued under authority of this subchapter in case of sudden emergency shall be fined not more than \$20,000.00. A person who fails to comply with an order requiring notice shall be fined \$200.00 for each day's neglect commencing with the effective date of ~~such~~ the order or the date ~~such~~ the order is finally determined if an appeal has been filed.

(c) The ~~commissioner~~ Commissioner may, after notice and opportunity for hearing, assess an administrative penalty of not more than \$1,000.00 for each

violation of this subchapter or any rule adopted under this subchapter.

Penalties assessed pursuant to this subsection shall be based on the severity of the violation. An election by the ~~commissioner~~ Commissioner to proceed under this subsection shall not limit or restrict the ~~commissioner's~~ Commissioner's authority under subsection (a) of this section.

(d) Violation of any rule adopted under this subchapter shall be prima facie evidence of negligence in any civil action for damage or injury ~~which~~ that is the result of the violation.

Sec. 172. 20 V.S.A. § 2756 is amended to read:

§ 2756. PURPOSE

It is the intent of this ~~act~~ subchapter to require that only reduced ignition propensity cigarettes be sold in Vermont. Although these cigarettes are not guaranteed to self-extinguish, they are expected to reduce fires and related personal injury and property damage caused by cigarette smoking.

Sec. 173. 20 V.S.A. § 2799 is amended to read:

§ 2799. DEFINITIONS

As used in this subchapter:

(1) "Explosive material" includes "explosives," "explosive material," "blasting agents," and "detonators," as defined in 18 U.S.C. § 841, as amended ~~at any time~~, and regulations promulgated ~~thereunder~~ pursuant to that section.

\* \* \*

(4) "Petroleum product" includes ~~without limitation~~ liquid petroleum gas, explosive flammable gases, and flammable fluids, compounds, or tablets, derived in whole or in part from petroleum.

Sec. 174. 20 V.S.A. § 2832 is amended to read:

§ 2832. TIME OF INVESTIGATION; SUPERVISION AND DIRECTION

~~Such~~ An investigation pursuant to section 2831 of this subchapter shall be begun within five days after the occurrence of ~~such~~ the fire or as soon thereafter as it appears that there is cause ~~therefor~~ for an investigation. The ~~fire marshal~~ Fire Marshal or the ~~deputy fire marshal~~ Deputy Fire Marshal shall have the right to supervise and direct ~~such~~ the investigation whenever he or she deems it necessary or expedient.

Sec. 175. 20 V.S.A. § 2833 is amended to read:

§ 2833. REPORTS TO FIRE MARSHAL

(a) The chief of a volunteer or paid fire department or, if there is no fire department, the first ~~selectman~~ selectperson of a town, shall within five days of the occurrence of a fire within his or her jurisdiction ~~which~~ that causes serious injury to any person or loss or damage to property ~~which~~ that exceeds \$200.00, forward a report of the fire to the ~~state fire marshal~~ State Fire Marshal on forms ~~to be furnished by him~~ provided by the Fire Marshal. If the reporting officer has reason to believe that a fire is of suspicious origin, he or she shall report that fact to the ~~state fire marshal~~ State Fire Marshal immediately. No fee shall

be paid or allowed any officer for rendering the report required by this subsection.

(b) An officer referred to in subsection (a) of this section who ~~wilfully~~ intentionally neglects to comply with any of the requirements of this subchapter shall be fined not more than \$100.00.

Sec. 176. 20 V.S.A. § 2835 is amended to read:

§ 2835. ~~DISTRICT~~ SUPERIOR JUDGE

If a ~~selectman~~ selectperson of a town or a mayor of a city is informed that a building, pile of wood, lumber, or bark, or any other property in the ~~town~~ municipality, has been ~~wilfully~~ intentionally and maliciously set on fire or burned, a majority of the ~~selectmen~~ selectboard, or the mayor, may apply to a ~~district~~ Superior judge, who shall inquire into the cause of the fire and the manner in which it was set and the property burned.

Sec. 177. 20 V.S.A. § 2861 is amended to read:

§ 2861. GENERALLY

When it may seem to be for the public good, the ~~fire-marshal~~ Fire Marshal shall personally visit and investigate any fire in accordance with the provisions of this chapter and ~~he~~ shall be repaid ~~all~~ for any related expenses ~~incident thereto~~ out of the funds ~~provided for in section 2687 of this title~~ appropriated to the Division of Fire Safety.

Sec. 178. 20 V.S.A. § 2864 is amended to read:

§ 2864. ATTENDANCE OF WITNESSES; PRODUCTION OF  
DOCUMENTS

The ~~fire marshal~~ Fire Marshal and the ~~deputy fire marshal~~ Deputy Fire Marshal, or either of them, may summon and compel the attendance of witnesses ~~before them, or either of them,~~ to testify relative to any matter ~~which that is by the provisions of this chapter~~ a subject of to an inquiry or investigation pursuant to the provisions of this chapter and may require the production of any book, paper, or document ~~deemed pertinent thereto by them that they deem pertinent to the inquiry or investigation.~~ Witnesses shall be subpoenaed in the same manner as witnesses in the ~~criminal division~~ Criminal Division of the ~~superior court~~ Superior Court and a person shall not be excused from ~~attending~~ appearing before the ~~fire marshal~~ Fire Marshal or ~~deputy fire marshal~~ Deputy Fire Marshal when summoned ~~to attend~~ appear. ~~They~~ A witness shall receive the same compensation as is paid in ~~criminal division~~ Criminal Division of the ~~superior court~~ Superior Court, which shall be paid out of the ~~fire marshal fund~~ Fire Prevention and Building Inspection Special Fund upon vouchers signed by the ~~fire marshal~~ Fire Marshal or ~~deputy fire marshal~~ Deputy Fire Marshal before whom ~~any~~ the witnesses ~~have attended~~ appeared. At the close of the investigation ~~wherein such~~ for which the witnesses were subpoenaed ~~such~~ the officer shall certify to their

attendance and mileage, ~~which and the~~ certificate shall be filed in the ~~office~~  
Office of the ~~fire marshal~~ Fire Marshal.

Sec. 179. 20 V.S.A. § 2866 is amended to read:

§ 2866. TESTIMONY UNDER OATH

When in his or her opinion further investigation is necessary, the ~~fire~~  
~~marshal~~ Fire Marshal shall take or cause to be taken the testimony under oath  
of all persons supposed to have knowledge of any facts or to have means of  
knowledge relating to any fire or matter regarding which an examination is  
~~herein~~ required to be made pursuant to this chapter, and he or she shall cause  
the ~~same~~ testimony to be reduced to writing.

Sec. 180. 20 V.S.A. § 2868 is amended to read:

§ 2868. CONTEMPT

A witness may be punished as for contempt of court who:

- (1) Refuses to obey a summons of the ~~fire marshal~~ Fire Marshal or  
~~deputy fire marshal~~ Deputy Fire Marshal; or
- (2) Refuses to be sworn or to testify; or
- (3) Disobeys a lawful order of the ~~fire marshal~~ Fire Marshal or ~~deputy~~  
~~fire marshal~~ Deputy Fire Marshal in relation to an investigation instituted by  
him or her; or
- (4) Fails or refuses to produce any book, paper, or document relating to  
any matter under investigation or examination; or

(5) Is guilty of any contemptuous act after being summoned to appear before the ~~fire marshal~~ Fire Marshal or ~~deputy fire marshal~~ Deputy Fire Marshal, or either of them, to give testimony relating to any matter under examination or investigation ~~as aforesaid~~.

Sec. 181. 20 V.S.A. § 2900 is amended to read:

§ 2900. DEFINITIONS

As used in this chapter:

\* \* \*

(8) “Public building” means a State, county, or municipal building, airport terminal, bus or railroad station, school building, school, ~~or~~ society hall, hotel as defined in 32 V.S.A. § 9202, restaurant, apartment, church or other house of worship, factory, mill, office building or other building in which persons are employed, store or other space ~~wherein~~ in which goods are offered for sale at wholesale or retail, nursery, convalescent home, home for ~~the aged~~ persons who are elders, or child care facility<sub>2</sub>; provided that the term “public building” does not include a family residence registered as a child care home under 33 V.S.A. chapter 35, subchapter 1. “Public building” also means a tent or outdoor structure, place of amusement, barn, shed, or workshop, if normally open to the public for the purpose of offering goods for sale at wholesale or retail, public assembly<sub>1</sub>, or viewing, entertainment, or education. “Public building” shall not include a working farm or farms, as that term is defined by

section 2730 of this title. However, for purposes of this chapter, “public building” shall not include existing housing on a working farm provided to farm employees or a farm building that is open for public tours and for which no fee is charged for those tours.

\* \* \*

Sec. 182. 20 V.S.A. § 2961 is amended to read:

§ 2961. AUTHORIZATION

Any town, city, or private volunteer fire department may, by ordinance or resolution, authorize and permit its firefighting forces and equipment to go to the aid of a person, corporation, or private volunteer fire department in another municipality, subject to ~~such~~ any conditions and restrictions ~~as may be prescribed therein~~ set forth in the ordinance or resolution.

Sec. 183. 20 V.S.A. § 2987 is amended to read:

§ 2987. ORGANIZATION

Upon receipt of ~~such~~ a petition pursuant to section 2986 of this subchapter, ~~the state fire marshal~~ State Fire Marshal shall call the first or organization meeting of the system by giving written notice to the chief of each fire department in the system and may invite private fire departments within the designated area to join in the meeting by giving similar notice to them. Each fire department shall send one delegate to the organization and subsequent meetings and shall be entitled to one vote in all proceedings. The delegate

shall be the chief of each fire department or ~~such alternate as he may designate~~ his or her designee. At the organization meeting, the members of the system shall adopt articles of association and bylaws and ~~regulations~~ rules for the future government and operation of the system ~~which that shall be effective~~ take effect upon submission to and approval by the ~~attorney general~~ Attorney General, who shall cause them to be recorded by the ~~secretary of state~~ Secretary of State. The system shall be deemed to ~~have been~~ be formally established upon that recording. The organization meeting shall also elect a board of directors consisting of such number as ~~they may~~ the delegates determine. Delegates and directors need not be residents. The board of directors shall be the governing body of the system and shall serve for terms of one year and until their successors are elected and qualify. The delegates shall choose from their number the officers of the system, except that a secretary, or a treasurer, or both, may be nondelegates. All officers shall have such duties and powers as the bylaws provide. Within the limits of available funds, the directors may employ and fix the compensation of agents and other necessary personnel, who shall serve at their pleasure and have and exercise such powers and authority as they may delegate to them.

Sec. 184. 20 V.S.A. § 2988 is amended to read:

§ 2988. POWERS AND DUTIES

A district fire mutual aid system shall coordinate the services of all fire departments belonging to it so as to provide better and more efficient cooperation in the protection of life and property against fire and in the case of other accidental or natural emergency within the area ~~which~~ that it comprises. It may establish an overall plan or plans for that coordination. Within the limits of available funds, it may acquire and operate property and equipment, including a dispatch center and a communications service, and may extend the advantages of group purchasing and benefits to departments in the system. It may provide and operate training programs for ~~firemen~~ firefighters and others, or enter into agreements with other agencies or institutions to provide and operate those programs. It shall cooperate with other ~~state~~ State agencies and with the civil defense authorities, ~~state~~ State and local. The ~~state fire marshal~~ State Fire Marshal may give advice, recommendations, and assistance to the system on request. It may accept any and all donations, gifts, and grants of money, property, equipment, supplies, materials, and services from the federal or any ~~state~~ State or local government, or any agency ~~thereof~~ of federal, State, or local government and from any person, firm, or corporation, for any of its purposes and functions under this subchapter, and may receive and utilize the

~~same~~ donations, gifts, and grants subject to the terms, conditions and ~~regulations~~ rules governing the donations, gifts, and grants.

Sec. 185. 20 V.S.A. § 3072 is amended to read:

§ 3072. ISSUANCE OF LICENSE

(a) Any person who ~~has reached the age of majority~~ is at least 18 years of age may apply to the Commissioner of Public Safety for a license to possess, purchase, store, use, transport, give, transfer, or sell explosives, as defined in 13 V.S.A. § 1603, in this State for not more than one year from the date of issue.

(b) An applicant for a license shall be entitled to the issuance ~~thereof~~ of the license upon the submission of evidence, under oath, that satisfies the Commissioner of Public Safety that the applicant:

(1) has a reasonable and lawful purpose for possessing, purchasing, storing, using, transporting, giving, transferring, or selling explosives;

(2) has not been convicted of an offense ~~the~~ with a maximum term of imprisonment ~~of which~~ that exceeds one year within the seven years preceding the application;

\* \* \*

(d) The license shall be issued or denied within 15 days after the application ~~therefor; however, if~~ is submitted. If the application is denied, the

reasons for the denial shall be stated in writing with a copy mailed to the applicant.

(e) The Commissioner of Public Safety may revoke any license issued under this division if, in his or her opinion, the holder has violated any provision of this division or of 13 V.S.A. §§ 1603-1611, or is ineligible to acquire explosives or to obtain a license under this section. A written notice of a revocation of a license by the Commissioner of Public Safety shall be given to the holder of the license in person or by certified mail prior to or concurrently with the effective date of the revocation, ~~which~~. The notice shall state specific grounds upon which the revocation is based.

Sec. 186. 20 V.S.A. § 3075 is amended to read:

§ 3075. RULES AND REGULATIONS

~~The commissioner of public safety~~ Commissioner of Public Safety may adopt rules ~~and regulations~~ under ~~chapter 25 of Title 3~~ V.S.A. chapter 25 to implement the provisions of this division and to govern the storage, transportation, and the manner of use of explosives as defined in 13 V.S.A. § 1603.

Sec. 187. 20 V.S.A. § 3076 is amended to read:

§ 3076. PENALTIES

Any person convicted of violating the rules ~~or regulations~~ adopted under this division or of making a false statement in applying for a license under this

division, shall be fined not more than \$1,000.00 or imprisoned not more than five years, or both.

Sec. 188. 20 V.S.A. § 3131 is amended to read:

§ 3131. DEFINITIONS

~~The~~ As used in this subchapter, the term “fireworks” means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration, or detonation, including blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, balloons that are propelled by explosives, firecrackers, torpedoes, sky rockets, Roman candles, cherry bombs, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or any tablets or other device containing any explosive substance, except sparklers. The term “fireworks” does not include toy pistols, toy canes, toy guns, or other devices in which paper caps containing 0.25 grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for use, and toy pistol paper caps that contain less than 0.2 grains of explosive mixture. The term “fireworks” does not include fixed ammunition for firearms, or primers for firearms. The term “sparkler” means a sparkling item that ~~is in compliance~~

complies with the ~~United States~~ U.S. Consumer Product Safety Commission regulations and is one of the following:

\* \* \*

Sec. 189. 20 V.S.A. § 3132 is amended to read:

§ 3132. PROHIBITIONS; PERMITS

(a) Except as provided in this section, it shall be unlawful for any person, firm, co-partnership, or corporation to do any of the following:

\* \* \*

(5) Offer for sale or sell sparklers that are not in compliance with the ~~United States~~ U.S. Consumer Product Safety Commission regulations.

(b) The ~~state fire marshal shall have power to~~ State Fire Marshal may adopt reasonable rules ~~and regulations~~ for granting permits for supervised public displays of fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals.

\* \* \*

Sec. 190. 20 V.S.A. § 3157 is amended to read:

§ 3157. DIVISION OF FIRE SAFETY SPECIAL FUND

The ~~division of fire safety special fund~~ Division of Fire Safety Special Fund is established. The ~~fund~~ Fund shall be administered by the ~~commissioner of public safety from which payments~~ Commissioner of Public Safety. Payments from the Fund may be made to support training programs and activities

authorized by this chapter, maintenance and operation of any permanent training facilities operated by the ~~division of fire safety~~, Division of Fire Safety and the administrative expenses of the ~~division of fire safety~~ Division of Fire Safety. The ~~fund~~ Fund shall consist of all monies received from tuitions, contributions, capital grants, or other funds received by the ~~council~~ Council, transfers from the ~~insurance regulatory and supervision fund under 8 V.S.A. § 80(b)~~ Insurance Regulatory and Supervision Fund pursuant to 8 V.S.A. § 80(c), and assessments of insurance companies under 32 V.S.A. § 8557(a), together with monies appropriated to the ~~fund~~ Fund. Monies remaining in the ~~fund~~ Fund at the end of any fiscal year shall be carried forward and remain in the ~~fund~~ Fund. Disbursement from the ~~fund~~ Fund shall be made by the ~~state treasurer~~ State Treasurer on warrants drawn by the ~~commissioner of finance and management~~ Commissioner of Finance and Management.

Sec. 191. 20 V.S.A. § 3343 is amended to read:

§ 3343. YARD OF TOWNHOUSE, CHURCH, OR SCHOOLHOUSE

A person who turns cattle, horses, sheep, goats, or swine into a yard belonging to a townhouse, church, or schoolhouse, which is properly enclosed, or knowingly permits them to run ~~therein~~ in such a yard, shall be fined not more than \$10.00 nor less than \$3.00.

Sec. 192. 20 V.S.A. § 3344 is amended to read:

§ 3344. BURIAL GROUND

A person who knowingly turns cattle, horses, sheep, goats, or swine into a properly enclosed burial ground, or who knowingly permits ~~the same~~ them to run ~~therein~~ within a properly enclosed burial ground, if it is properly enclosed, shall be fined \$25.00.

Sec. 193. 20 V.S.A. § 3349 is amended to read:

§ 3349. STALLIONS

(a) An owner or keeper of a stallion, more than one year old, who ~~wilfully~~ intentionally or negligently permits ~~such~~ the stallion to run at large out of the enclosure of ~~such~~ the owner or keeper, shall be fined for each instance not more than \$500.00 nor less than \$100.00 and shall also be liable to a party injured for the damage done by ~~such~~ the stallion while running at large.

(b) A person who owns or keeps a stallion over one year of age, between April 1 and December 1, in a private enclosure in ~~such~~ a manner ~~as to disturb and annoy~~ that disturbs and annoys the owner or occupant of adjoining premises shall be fined \$5.00 for each week ~~he so keeps such~~ that the owner or keeper keeps the stallion after ~~he~~ the owner or keeper has received three days' notice from an adjoining owner or occupant to remove ~~such~~ the stallion.

Sec. 194. 20 V.S.A. § 3416 is amended to read:

§ 3416. ASCERTAINMENT OF DAMAGES; DISCHARGE ON PAYMENT

The appraisers shall ascertain the damages done by ~~such~~ the animal, and make a certificate of the amount ~~thereof of damages~~, and ~~forthwith~~ promptly transmit the ~~same~~ certificate to the poundkeeper. An impounded animal ~~so impounded~~ shall not be discharged until ~~such~~ the damages, charges, and costs are paid, nor shall an animal be detained after ~~such~~ payment is made.

Sec. 195. 20 V.S.A. § 3418 is amended to read:

§ 3418. FORFEITURE FOR FAILURE TO REPLEVY OR REDEEM

If the owner or keeper of an animal impounded does not, within 48 hours after notice ~~thereof as aforesaid~~ of the impoundment pursuant to the provisions of this chapter, either replevy or redeem the ~~same~~ animal, he or she shall ~~forfeit~~ be liable to the poundkeeper for \$3.00 for each animal so by him or her suffered to remain left in pound, and the same sum for every plus an additional \$3.00 for each additional day thereafter he or she so suffers such the animal to remain is left in pound, and pay the charges to the poundkeeper. Such forfeiture shall be recovered by the The poundkeeper for his or her use may recover the amount in a civil action.

Sec. 196. 20 V.S.A. § 3423 is amended to read:

§ 3423. RECORD OF SALE

Immediately after the sale, the impounder shall cause a description of the animal, with an account of the associated damages, charges, and expenses ~~aforsaid pursuant to the provisions of this chapter~~, and the sum for which it was sold, to be recorded in the office of the clerk of the town.

Sec. 197. 20 V.S.A. § 3546 is amended to read:

§ 3546. INVESTIGATION OF VICIOUS DOMESTIC PETS OR WOLF-  
HYBRIDS; ORDER

(a) When a domestic pet or wolf-hybrid has bitten a person while the domestic pet or wolf-hybrid is off the premises of the owner or keeper, and the person bitten requires medical attention for the attack, ~~such~~ the person may file a written complaint with the legislative body of the municipality. The complaint shall contain the time, date, and place where the attack occurred, the name and address of the victim or victims, and any other facts that may assist the legislative body in conducting its investigation required by subsection (b) of this section.

(b) The legislative body, within seven days from receipt of the complaint, shall investigate the charges and hold a hearing on the matter. If the owner of the domestic pet or wolf-hybrid ~~which~~ that is the subject of the complaint can be ascertained with due diligence, ~~said~~ the owner shall be provided with a

written notice of the time, date, and place of hearing and the facts of the complaint.

(c) If the domestic pet or wolf-hybrid is found to have bitten the victim without provocation, the municipal officials shall make such order for the protection of persons as the facts and circumstances of the case may require, including, ~~without limitation,~~ that the domestic pet or wolf-hybrid is disposed of in a humane way, muzzled, chained, or confined. The order shall be sent by certified mail, return receipt requested. A person who, after receiving notice, fails to comply with the terms of the order shall be subject to the penalties provided in section 3550 of this chapter.

(d) The procedures provided in this section shall apply if the domestic pet or wolf-hybrid is not a rabies suspect. If a member of the legislative body or a municipal official designated by the legislative body determines that the animal is a rabies suspect, the provisions of subchapter 5 of this chapter and the rules of the ~~department of health~~ Department of Health shall apply.

\* \* \*

Sec. 198. 20 V.S.A. § 3550 is amended to read:

§ 3550. PENALTIES; ENFORCEMENT; MUNICIPAL LEGISLATIVE  
BODY; SECRETARY

\* \* \*

(f) A person who receives a notice of violation shall be offered an opportunity for a hearing before the legislative body or hearing officer, provided that the request for hearing is made in writing to the clerk of the municipality or the Secretary ~~no later than~~ within 21 days after the date of mailing of the notice of violation. If the respondent does not request a hearing in a timely fashion, the decision shall be final and the penalty shall be payable within 35 days following mailing of the notice of violation. If the respondent does make a timely request for a hearing, the legislative body or hearing officer shall hold a hearing within 14 days of receipt of the request. After the hearing, the legislative body or hearing officer may affirm, reduce, or eliminate the penalty. The decision shall be delivered or mailed to the respondent in the same manner as the notice of violation and shall be effective five days following mailing of the decision or immediately following delivery of the decision.

\* \* \*

Sec. 199. 20 V.S.A. § 3581 is amended to read:

§ 3581. GENERAL REQUIREMENTS

(a) A person who is the owner of a dog or wolf-hybrid more than six months old shall annually on or before April 1 cause it to be registered, numbered, described, and licensed on a form approved by the Secretary for one year from that day in the office of the clerk of the municipality in which the

dog or wolf-hybrid is kept. A person who owns a working farm dog and who intends to use that dog on a farm pursuant to the exemptions in section 3549 of this title shall cause the working farm dog to be registered as a working farm dog and shall, in addition to all other fees required by this section, pay \$5.00 for a working farm dog license. The owner of a dog or wolf-hybrid shall cause it to wear a collar, and attach ~~thereto~~ a license tag issued by the municipal clerk to the collar. Dog or wolf-hybrid owners shall pay for the license \$4.00 for each neutered dog or wolf-hybrid, and \$8.00 for each unneutered dog or wolf-hybrid. If the license fee for any dog or wolf-hybrid is not paid on or before April 1, its owner or keeper may thereafter procure a license for that license year by paying a fee of 50 percent in excess of that otherwise required.

\* \* \*

Sec. 200. 20 V.S.A. § 3583 is amended to read:

§ 3583. DOMESTIC PETS AND WOLF-HYBRIDS KEPT FOR BREEDING  
PURPOSES

\* \* \*

(b) Domestic pets and wolf-hybrids covered by the special license ~~hereunder~~ pursuant to this section shall be exempt from other license fees, and all licenses under this section are exempt from the surcharge enacted under subsection (c) of section 3581 of this title.

\* \* \*

Sec. 201. 20 V.S.A. § 3588 is amended to read:

§ 3588. ISSUANCE OF LICENSES; RECORD OF LICENSES

Municipal clerks shall issue licenses and receive the money ~~therefor~~ for the license, and pay the ~~same~~ the amount received into the municipal treasury, within 60 days of ~~the receipt thereof~~, retaining to their own use \$2.00 for each license or permit, and shall ~~return therewith~~ include with the amount deposited into the municipal treasury a sworn statement of the amount ~~of moneys thus~~ received and paid over by them pursuant to this section.

Sec. 202. 20 V.S.A. § 3621 is amended to read:

§ 3621. ISSUANCE OF WARRANT TO IMPOUND; COMPLAINT

(a)(1) The legislative body of a municipality may at any time issue a warrant to one or more police officers, constables, pound keepers, or appointed animal control officers, directing them to ~~proceed forthwith to~~ promptly impound all dogs or wolf-hybrids within the town or city not licensed according to the provisions of this subchapter, except as exempted by section 3587 of this title, and to enter a complaint against the owners or keepers ~~thereof~~ of the impounded dogs and wolf-hybrids.

\* \* \*

Sec. 203. 20 V.S.A. § 3622 is amended to read:

§ 3622. FORM OF WARRANT

Such warrant shall be in the following form:

State of Vermont: )  
 )  
 )  
\_\_\_\_\_ County, ss. )

To \_\_\_\_\_, constable or police officer of  
the town or city of \_\_\_\_\_:

By the authority of the State of Vermont, you are hereby commanded  
~~forthwith~~ to impound all dogs and wolf-hybrids not duly licensed according to  
law without delay, except as exempted by 20 V.S.A. § 3587; and you are  
further required to make and return complaint against the owner or keeper of  
any such dog or wolf-hybrid. A dog or wolf-hybrid that is impounded may be  
transferred to an animal shelter or rescue organization for the purpose of  
finding an adoptive home for the dog or wolf-hybrid. If the dog or wolf-hybrid  
cannot be placed in an adoptive home or transferred to a humane society or  
rescue organization within ten days, or a greater number of days established by  
the municipality, the dog or wolf-hybrid may be destroyed in a humane way.

Hereof fail not, and due return make of this warrant, with your doings  
thereon, within 90 days from the date hereof, stating the number of dogs or

wolf-hybrids destroyed and the names of the owners or keepers thereof, and whether all unlicensed dogs or wolf-hybrids in such town (or city) have been destroyed, and the names of persons against whom complaints have been made under the provisions of 20 V.S.A. chapter 193, subchapters 1, 2, and 4, and whether complaints have been made and returned against all persons who have failed to comply with the provisions of such subchapter. Given under our (my) hands at \_\_\_\_\_ ~~aforsaid~~, this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Legislative Body

Sec. 204. 20 V.S.A. § 3623 is amended to read:

§ 3623. CONSTABLE TO MAKE COMPLAINTS

A constable to whom ~~such a~~ warrant has been issued pursuant to section 3621 of this subchapter shall make complaints ~~therein~~ required ~~to be made by the warrant~~ to the designee of the legislative body of the municipality.

Sec. 205. 20 V.S.A. § 3625 is amended to read:

§ 3625. RETURN BY OFFICERS

Each police officer or constable to whom ~~such a~~ warrant is issued pursuant to section 3621 of this subchapter shall make the return ~~therein~~ directed by the warrant to the authority issuing the warrant within 90 days from its date.

Sec. 206. 20 V.S.A. § 3681 is amended to read:

§ 3681. PET DEALER PERMIT

A pet dealer shall apply to the municipal clerk of the town or city in which the cats, dogs, or wolf-hybrids are kept for a pet dealer permit to be issued on forms prescribed by the Secretary and pay the clerk a fee of \$25.00 for the ~~same~~ permit. A pet dealer who acquires a pet dealer permit shall allow inspections of the pet dealer's premises pursuant to section 3682 of this title as a condition of receiving and retaining the permit. The provisions of subchapters 1, 2, and 4 of this chapter not inconsistent with this subchapter shall apply to the pet dealer permit, which shall be in addition to other permits required. A pet dealer permit shall expire on March 31 next after issuance and shall be displayed prominently on the premises ~~on~~ in which the cats, dogs, or wolf-hybrids are kept. If the permit fee is not paid by April 1, the owner or keeper may thereafter procure a permit for that license year by paying a fee of 50 percent in excess of that otherwise required. Municipal clerks shall maintain a record of the type of animals being kept by the permit holder. Upon issuance of the pet dealer permit, the municipal clerk shall provide the pet dealer with a copy of Part 3 (Standards) of the Animal Welfare ~~Regulations~~ Rules adopted by the Agency of Agriculture, Food and Markets relating to cats, dogs, and wolf-hybrids. The municipal clerk shall also provide the pet dealer with contact information for the Animal Health Section within the

Division of Food Safety and Consumer Protection of the Agency of  
Agriculture, Food and Markets and with information from the Department of  
Taxes on sales tax obligations for the sale of pets.

Sec. 207. 20 V.S.A. § 3682 is amended to read:

§ 3682. INSPECTION OF PREMISES

\* \* \*

(b) Inspections shall be scheduled in advance with the pet dealer or pet dealer's agent. Inspections shall be conducted to facilitate compliance with the applicable standards in Part 3 (Standards) of the Animal Welfare ~~Regulations~~ Rules adopted by the Agency of Agriculture, Food and Markets relating to cats, dogs, and wolf-hybrids. The person or persons authorized to inspect the pet dealer's premises shall be accompanied by the pet dealer or pet dealer's agent. If the pet dealer's premises are also used for human habitation, the inspection may occur only in those areas of the premises used for animal housing, animal care, birthing, and storage of food and bedding. Photographs or videos of the pet dealer's premises or property shall not be taken during an inspection and while on the pet dealer's premises without the written consent of the permit holder. Repeated failure to consent to an inspection may result in a revocation of the pet dealer permit.

\* \* \*

Sec. 208. 20 V.S.A. § 3684 is amended to read:

§ 3684. OFFENSES; BILL OF COSTS IN PROSECUTION

The person operating a kennel who is found to have neglected to remedy conditions specified in ~~said~~ a quarantine order issued pursuant to section 3683 of this subchapter, other than the prevalence of contagious disease, within ten days after receiving notice of ~~such~~ the order, or who sells, gives away, or otherwise removes a domestic pet or wolf-hybrid under quarantine or affected with a contagious disease, shall be subject to the penalty provided in 13 V.S.A. § 353(a)(1). Necessary fees and expenses of a veterinarian designated by ~~such~~ the officer or agent shall be included in the bill of costs in a prosecution made ~~hereunder~~ pursuant to this section and shall be taxed to the respondent.

Sec. 209. 20 V.S.A. § 3811 is amended to read:

§ 3811. CARCASS DISPOSAL

In order to protect the public health, the legislative body of a municipality or a municipal officer designated by the legislative body may dispose of the carcass of any animal suspected of having been exposed to rabies through incineration. Disposal of animal carcasses in the manner provided by this section shall not be subject to the provisions of ~~chapter 23 of Title 10 V.S.A.~~ chapter 23 and the rules ~~promulgated thereunder~~ pursuant to that chapter.

Sec. 210. 20 V.S.A. § 3815 is amended to read:

§ 3815. DOG, CAT, AND WOLF-HYBRID SPAYING AND NEUTERING  
PROGRAM

(a) The ~~agency of human services~~ Agency of Human Services shall administer a dog, cat, and wolf-hybrid spaying and neutering program providing reduced-cost spaying and neutering services and presurgical immunization for dogs, cats, and wolf-hybrids owned or cared for by ~~low income~~ individuals with low income. The ~~agency~~ Agency shall implement the program through an agreement with a qualified organization consistent with the applicable administrative rules.

(b) The program shall reimburse veterinarians who voluntarily consent to spay or neuter dogs, cats, and wolf-hybrids under the auspices of the program. The reimbursement shall be less any co-payment by the owner of a dog, cat, or wolf-hybrid for the cost of each spaying or neutering procedure.

(c) The ~~secretary of human services~~ Secretary of Human Services, in consultation with the chair of the Vermont Board of Veterinary Medicine, may adopt and amend rules pursuant to ~~chapter 25 of Title 3 V.S.A.~~ chapter 25 to enable the ~~agency~~ Agency to carry out the purposes of this ~~act~~ subchapter.

Sec. 211. 20 V.S.A. § 4505 is amended to read:

§ 4505. RECEIPT OF APPLICATION

Upon receipt of an application for a permit to hold an assembly, the permit officer shall note the time of filing on the application and shall ~~forthwith~~ promptly mail or otherwise deliver a copy of the application to the principal officers of the applicant named in the application, to the ~~attorney general~~ Attorney General, the ~~state's attorney~~ State's Attorney having jurisdiction, and the clerk of the political subdivision in which the assembly is to be held.

Sec. 212. 20 V.S.A. § 4507 is amended to read:

§ 4507. CRITERIA FOR IMPOSING CONDITIONS ON PERMIT

\* \* \*

(b) The permit officer may impose conditions to ensure that:

\* \* \*

(7) the person holding the public assembly furnishes an adequate bond or arranges other financial security in a reasonable amount to ~~insure~~ ensure reimbursement of a political subdivision, the state of Vermont, or any police agency, for the cost of additional law enforcement officers required to meet any other condition.

Sec. 213. 20 V.S.A. § 4508 is amended to read:

§ 4508. JUDICIAL REVIEW

(a) If there is a reasonable likelihood that an assembly will substantially harm the public health or safety and this cannot be avoided by imposition of conditions, or if no permit for such an assembly has been applied for, the permit officer shall ~~forthwith~~ apply without delay to the ~~superior court~~ Superior Court for an order enjoining the applicant, other interested persons, or those persons the permit officer believes intend to hold an assembly without a permit, from holding the assembly.

(b) An applicant may petition the ~~superior court~~ Superior Court for review of the reasonableness of any conditions imposed in a permit. A person who desires to organize or promote any outdoor public gathering may also petition the court for an order declaring that the gathering is not subject to this chapter. The petition shall contain a copy of the application, a copy of the permit, if any, and state the grounds for the decision requested.

Sec. 214. 20 V.S.A. § 4511 is amended to read:

§ 4511. PENALTIES

A person who ~~willfully~~ intentionally:

\* \* \*

(2) conducts, organizes, or promotes an assembly without applying for a permit, may be fined not more than \$2,000.00, or imprisoned for not more than two years, or both.

Sec. 215. 21 V.S.A. § 226(c) is amended to read:

(c) If an employer notifies the Commissioner that ~~he or she~~ the employer intends to contest a citation issued under section 225 of this title, or if, within 20 days after the issuance of a citation ~~issued~~ under section 225 of this title, any employee or representative of employees files a notice with the Commissioner alleging that the period of time fixed in the citation for the abatement of the violation is unreasonable, the Commissioner shall immediately advise the Review Board of the notification and the Review Board shall afford an opportunity for a hearing. Unless a notice is timely filed, the proposed penalty and, in appropriate cases, the citation shall be deemed a final order of the Review Board not subject to review by any court or agency.

Sec. 216. 21 V.S.A. § 346(b)(2) is amended to read:

(2) Upon receiving notice that the Attorney General has determined that an ~~employing unit~~ employer has committed a violation of section 342, 343, 348, 482, or 483 of this chapter by misclassifying an employee as an independent contractor, the Commissioners of Financial Regulation and of Taxes shall review whether the employer is in compliance with the insurance or tax laws that are under their jurisdiction.

Sec. 217. 21 V.S.A. § 387(b)(2) is amended to read:

(2) Upon receiving notice that the Attorney General has determined that an ~~employing unit~~ employer has committed a violation of this subchapter by misclassifying an employee as an independent contractor, the Commissioners of Financial Regulation and of Taxes shall review whether the employer is in compliance with the insurance or tax laws that are under their jurisdiction.

Sec. 218. 21 V.S.A. § 495i(c)(1)(D) is amended to read:

(D) The position of employment is that of a law enforcement officer as defined in ~~20 V.S.A. § 2358~~ 20 V.S.A. § 2351a, emergency medical personnel as defined in 24 V.S.A. § 2651(6), or a firefighter as defined in 20 V.S.A. § 3151(3).

Sec. 219. 21 V.S.A. § 1311a is amended to read:

§ 1311a. PROFESSIONAL TRAINING FOR EMPLOYEES

The Commissioner of ~~Employment and Training~~, using grant funds made available ~~to the State of Vermont~~ by ~~grant from~~ the United States, may, to the extent permitted and subject to the approval of the Governor ~~and in compliance with the rules and regulations governing the use of such funds~~, provide professional training for ~~any of his or her~~ the Department's employees by contracting with educational institutions for short courses or other forms of intensive instruction.

Sec. 220. 21 V.S.A. § 1314(e)(6)(D) is amended to read:

(D) The information requested shall not be released unless HUD or the ~~requested~~ requesting public housing agency agrees to reimburse the Department of Labor for the costs involved in furnishing the requested information.

Sec. 221. 21 V.S.A. § 1319 is amended to read:

§ 1319. AGREEMENTS FOR COLLECTION AND PAYMENT OF  
CONTRIBUTIONS

~~The~~ Notwithstanding the provisions of subdivision 1301(6)(A) of this title,  
the Commissioner ~~also~~ is authorized to enter into reciprocal agreements with  
the appropriate agencies of other states or the federal government adjusting the  
collecting and payment of contributions by employers ~~with respect to~~ for  
services of individuals not performed wholly within the jurisdiction of this  
State ~~whereby such.~~ Under the agreements, services may be agreed ~~upon~~ to be  
considered for all purposes, ~~if the Commissioner so desires in the~~  
Commissioner's discretion, as wholly within, or wholly ~~without,~~ outside of the  
jurisdiction of this State, ~~notwithstanding any provisions of subdivision~~  
~~1301(6)(A) of this title.~~

Sec. 222. 21 V.S.A. § 1344(c) is amended to read:

(c) Notwithstanding any other provision of this chapter, any individual who  
has been disqualified for regular or extended benefits pursuant to the

provisions of ~~subdivisions~~ subdivision(a)(1) or (a)(3) of this section shall not be eligible to receive extended benefits with respect to any week of unemployment in ~~his or her~~ the individual's eligibility period unless ~~he or she~~ the individual has been employed after the beginning date of such disqualification and has earned in excess of four times ~~his or her~~ the individual's weekly benefit amount.

Sec. 223. 23 V.S.A. § 4(38) is amended to read:

(38) "Tandem axle load" is the total load transmitted to the highway by all wheels whose centers may be included between two parallel transverse vertical planes not less than 48 inches apart and not more than eight feet apart, extending across the full width of the vehicle. A trunnion axle, with eight wheels in line, shall be considered to be a tandem axle, except that when operated upon portions of the highways that are designated as the Dwight D. Eisenhower National System of Interstate and Defense Highways it shall be considered a single axle.

Sec. 224. 23 V.S.A. § 4(61) is amended to read:

(61) "Storage trailer" ~~shall mean~~ means any regularly manufactured box type trailer that has been removed from normal over-the-highway service and is used solely for the storage of commodities at a fixed site for extended periods of time. When a storage trailer is moved over the public highways, it shall not contain cargo weighing more than 2,000 pounds; and shall be

properly equipped, in good mechanical condition, and inspectable under the provisions of section 1222 of this title, except that storage trailers need not display an inspection sticker.

Sec. 225. 23 V.S.A. § 4(73) is amended to read:

(73) “Neighborhood electric vehicle” means a self-propelled, electrically powered motor vehicle that:

\* \* \*

(E) has a gross vehicle weight rating less than 3,000 pounds; and

\* \* \*

Sec. 226. 23 V.S.A. § 4(78) is amended to read:

(78) “Enhanced license” ~~shall mean~~ means an operator’s license, commercial ~~driver~~ driver’s license, junior operator’s license, or nondriver identification card that denotes identity and citizenship and includes facilitative technology identified by the Department of Homeland Security.

Sec. 227. 23 V.S.A. § 115(a) is amended to read:

(a) Any Vermont resident may make application to the Commissioner and be issued an identification card that is attested by the Commissioner as to true name, correct age, residential address unless the listing of another address is requested by the applicant or is otherwise authorized by law, and any other identifying data as the Commissioner may require that shall include, in the case of minor applicants, the written consent of the applicant’s parent, guardian, or

other person standing in loco parentis. Every application for an identification card shall be signed by the applicant and shall contain such evidence of age and identity as the Commissioner may require, consistent with subsection (1) of this section. New and renewal application forms shall include a space for the applicant to request that a “veteran” designation ~~by~~ be placed on ~~his or her~~ the applicant’s identification card. If a veteran, as defined in 38 U.S.C. § 101(2), requests a veteran designation and provides a Department of Defense Form 214 or other proof of veteran status specified by the Commissioner, and the Office of Veterans Affairs confirms ~~his or her~~ the veteran’s status as an honorably discharged veteran or a veteran discharged under honorable conditions, the identification card shall include the term “veteran” on its face. The Commissioner shall require payment of a fee of \$24.00 at the time application for an identification card is made, except that an initial nondriver identification card shall be issued at no charge to an individual who surrenders his or her license in connection with a suspension or revocation under subsection 636(b) of this title due to a physical or mental condition.

Sec. 228. 23 V.S.A. chapter 5 is redesignated to read:

CHAPTER 5. PROVISIONS COMMON TO REGISTRATION AND  
~~OPERATORS’~~ OPERATOR’S LICENSES

Sec. 229. 23 V.S.A. § 202(3) and (4) are amended to read:

(3) ~~who~~ uses an assumed name or name that is not his or her own in an application for:

\* \* \*

(4) ~~who~~ knowingly aids an applicant in obtaining by false representation as to the age or identity of such applicant:

\* \* \*

Sec. 230. 23 V.S.A. § 203(a) is amended to read:

(a) A person shall not:

(1) counterfeit or cause to be counterfeited or have in his or her possession any counterfeit number plate, validating sticker, marker, inspection sticker, registration certificate, in-transit registration permit, learner's permit, nondriver identification card, insurance identification card, or ~~operator~~ operator's license or alter or have in his or her possession any altered number plate or marker;

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

(3) lend his or her ~~operator~~ operator's license to any other person or knowingly permit the use thereof by another;

(4) display or represent as his or her own any ~~operator~~ operator's license, permit, or nondriver identification card not issued to him or her;

(5) permit any unlawful use of an ~~operator~~ operator's license, permit, or nondriver identification card issued to him or her by the Commissioner;

\* \* \*

Sec. 231. 23 V.S.A. § 363 is amended to read:

§ 363. CONVERTED MOTOR VEHICLE

When a motor vehicle of the pleasure car type is built over or converted into a motor vehicle designed for carrying merchandise or freight, such motor vehicle shall be registered at the pleasure car rate or at the truck rate as the Commissioner may, in ~~his or her~~ the Commissioner's discretion, determine.

Sec. 232. 23 V.S.A. § 367(h) is amended to read:

(h) Loader backhoes used primarily for agricultural related purposes are exempt from the ~~provision~~ provisions of this section.

Sec. 233. 23 V.S.A. § 372a(a) is amended to read:

(a) The annual registration fee for any motor bus used in local transit or public transportation service shall be \$62.00, except for those vehicles owned by a municipality for such service that are subject to the provisions of section 376 of this title. In the event a bus registered for local transit or public

transportation service is ~~thereafter~~ subsequently registered for general use during the same registration year, such fee shall be applied ~~towards~~ toward the fee for general registration.

Sec. 234. 23 V.S.A. chapter 9 is redesignated to read:

CHAPTER 9. ~~OPERATORS'~~ OPERATOR'S LICENSES

Sec. 235. 23 V.S.A. § 610(c) is amended to read:

(c) Each license certificate issued to a first-time applicant and each subsequent renewal by that ~~person~~ individual shall be issued with the photograph or imaged likeness of the licensee included on the certificate. The Commissioner shall determine the locations where photographic licenses may be issued. ~~A person~~ An individual issued a license containing an imaged likeness under this subsection ~~that contains an imaged likeness~~ may renew ~~his or her license~~ by mail. ~~Except,~~ except that a renewal by a licensee required to have a photograph or imaged likeness ~~under this subsection~~ must be made in person so that an updated imaged likeness of the ~~person~~ individual is obtained ~~no~~ not less often than once every nine years.

Sec. 236. 23 V.S.A. § 610c is amended to read:

§ 610c. LEGISLATIVE INTENT; EXISTING ~~DRIVER~~ DRIVER'S

LICENSES WITHOUT PHOTOGRAPH OR IMAGED LIKENESS

It is the intent of the General Assembly that the provisions of subsection 610(c) of this title not require ~~persons~~ individuals who, prior to July 1, 2004,

were issued a ~~driver~~ driver's license without a photograph or imaged likeness to obtain a photograph or imaged likeness after that date.

Sec. 237. 23 V.S.A. § 750(b)(6) is amended to read:

(6) Insurance required by this subsection may be placed with an insurer licensed under 8 V.S.A. chapter 101 (insurance companies generally) or 138 (surplus lines insurance) ~~of this title.~~

Sec. 238. 23 V.S.A. § 1009(c) is amended to read:

(c) The Traffic Committee may authorize the stopping of a school bus on a controlled-access highway to pick up or discharge passengers, except the Traffic Committee may only authorize the stopping of a school bus on the Dwight D. Eisenhower National System of Interstate and Defense Highways, if, after a traffic and engineering study, ~~they determine~~ it determines that there is no viable alternative and that adequate safety, both for the passengers, school bus, and other highway users, can be maintained.

Sec. 239. 23 V.S.A. § 1042(a) is amended to read:

(a) The legislative body of a municipality may, with the approval of the Secretary of Transportation, designate highways and bridges under ~~their~~ its control, except for class 1 town highways, for use by specified types of motor vehicles based on volume and type of traffic and character of the neighborhood. However, when the legislative body of a municipality requests in writing, the Secretary of Transportation may set the weight limit on a class 1

town highway at less than the State highway limit under section 1392 of this title, if a reasonable alternative route is available for those vehicles traveling at the State highway limit. When a highway or bridge has been so restricted, signs shall be placed in accordance with the provisions of section 1397 of this title.

Sec. 240. 23 V.S.A. § 1073(d) is amended to read:

(d) If a ~~flagman~~ flagger is provided by the railroad, movement over the crossing shall be under ~~his or her~~ the flagger's direction.

Sec. 241. 23 V.S.A. § 1203a(d) is amended to read:

(d) The physician, licensed nurse, medical technician, physician assistant, medical technologist, or laboratory assistant drawing a sample of blood shall use a sample collection kit provided by the Department of Public Safety or another type of collection kit. The sample shall be identified as to donor, date, and time; sealed; and mailed to the Department of Public Safety where it shall be held for a period of at least 45 days from the date the sample was taken. At any time during that period, the person may direct that the sample be sent to an independent laboratory of the person's choosing for an independent analysis. The Department of Public Safety may recover its costs of supplies, handling, and storage.

Sec. 242. 23 V.S.A. § 1212(b) is amended to read:

(b) A court that requires as a condition of release that a defendant not operate a motor vehicle shall so notify the Commissioner of Motor Vehicles. The Commissioner shall take suitable steps to ~~assure~~ ensure that this information is available to law enforcement officers. The Court shall promptly advise the Commissioner of any modification of this condition of release and of the termination of proceedings.

Sec. 243. 23 V.S.A. § 1259 is redesignated to read:

§ 1259. SAFETY BELTS; PERSONS ~~AGE 18 OR OVER~~ 18 YEARS OF  
AGE OR OLDER

Sec. 244. 23 V.S.A. § 1302(c) is amended to read:

(c) Notwithstanding subsection (b) of this section, on the Dwight D. Eisenhower National System of Interstate and Defense Highways and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary of the U.S. Department of Transportation, commercial motor vehicle combinations consisting of a truck tractor and two trailing units may be operated with the approval of the Vermont Secretary of Transportation.

Sec. 245. 23 V.S.A. § 1391(c) is amended to read:

(c) Unless federal law authorizes the axle load limits, tolerances, or both, provided for in subsection (b) of this section to apply on those highways designated as the Dwight D. Eisenhower National System of Interstate and

Defense Highways (~~the “interstate highways”~~), no single axle load on ~~interstate~~ those highways shall be in excess of 20,000 pounds with no tolerance allowed, nor shall any tandem axle load be in excess of 34,000 pounds, with no tolerance allowed, except in the case of vehicles owned by persons to whom special permits have been issued in accordance with section 1400 of this title.

Sec. 246. 23 V.S.A. § 1392 is amended to read:

§ 1392. GROSS WEIGHT LIMITS ON HIGHWAYS

\* \* \*

(11) The weights or tolerances, or both, as set forth in subdivisions (5) and (6) of this section shall not apply to the highways designated as portions of the Dwight D. Eisenhower National System of Interstate and Defense Highways unless authorized by federal law.

\* \* \*

(13) Despite the axle-load provisions of section 1391 of this title and the maximum gross load of subdivision (4) of this section, a special annual permit, which shall expire ~~coincidentally~~ with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following date of issue, may be issued to a person or corporation operating on designated routes on the State Highway System for a fee of \$415.00 for each vehicle that must be registered for a weight of 80,000 pounds. This special permit shall be issued only for a combination of vehicle and semi-

trailer or trailer equipped with five or more axles, with a distance between axles that meets the minimum requirements of registering the vehicle to 80,000 pounds as allowed under subdivision (4) of this section. The maximum gross load under this special permit shall be 90,000 pounds. Unless authorized by federal law, this subdivision shall not apply to operation on the Dwight D. Eisenhower National System of Interstate and Defense Highway System Highways.

(14) Despite the axle-load provisions of section 1391 of this title and the axle spacing and ~~the~~ maximum gross load provisions of subdivision (4) of this section, a special annual permit, which shall expire ~~coincidentally~~ with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following date of issue, may be issued to a person or corporation transporting loads on vehicles on designated routes on the State Highway System for the following fees for each vehicle unit. Unless authorized by federal law, the provisions of this subdivision regarding weight limits, tolerances, or both, shall not apply to operation on the Dwight D. Eisenhower National System of Interstate and Defense Highway System Highways. This special permit shall be issued for the following vehicles and conditions:

\* \* \*

(15) Despite the axle load provisions of section 1391 of this title and the axle spacing and the maximum gross load of subdivision (4) of this section, a 5-axle tractor semi-trailer may operate on State highways with the following conditions:

\* \* \*

(B) Conditions in subdivisions (14)(D) and (F) of this section shall also apply to this subdivision (B), and unless authorized by federal law, this subdivision shall not apply to operation on the Dwight D. Eisenhower National System of Interstate and Defense Highway System Highways.

(16) Notwithstanding the axle load provisions of section 1391 of this title and the maximum gross load of subdivision (4) of this section, a five or more axle truck tractor, semi-trailer combination, or truck trailer combination, when the load consists solely of unprocessed milk products as defined in subdivision 4(55) of this title, may be registered for and operated with a maximum gross weight of 90,000 pounds on State highways without permit; and upon posted State and town highways and ~~on~~ those highways designated as the Dwight D. Eisenhower National System of Interstate and Defense Highways when the vehicle has been issued a permit in compliance with the provisions of section 1400 of this title; however:

\* \* \*

(B) On those highways designated as the Dwight D. Eisenhower National System of Interstate and Defense Highways, the provisions of subsection 1391(c) of this title shall apply unless other axle load limits, tolerances, or both, are authorized under federal law.

\* \* \*

(17) Notwithstanding the gross vehicle weight provisions of subdivision (4) of this section, a truck trailer combination or truck tractor, semi-trailer combination with six or more load-bearing axles shall be allowed to bear a maximum of 99,000 pounds by special annual permit, which shall expire ~~coincidentally~~ with the vehicle's registration, except for vehicles not registered in Vermont in which case the permit shall become void on January 1 following the date of issue, for operating on designated routes on State and town highways, subject to the following:

\* \* \*

(E) Unless authorized by federal law, the provisions of this subdivision shall not apply to operation on the Dwight D. Eisenhower National System of Interstate and Defense Highway System Highways.

\* \* \*

Sec. 247. 23 V.S.A. § 1432(e) is amended to read:

(e) Operation on Interstate highways. Notwithstanding subsection (a) of this section, on the Dwight D. Eisenhower National System of Interstate and

Defense Highways and those classes of qualifying Federal-aid Primary System highways as designated by the Secretary of the U.S. Department of Transportation, and on highways leading to or from the Dwight D. Eisenhower National System of Interstate and Defense Highways for a distance of one mile, unless the Agency of Transportation finds the use of a specific highway to be unsafe, no overall length limits for tractor-semitrailer or tractor semitrailer-trailer combination shall apply. On these highways, no semitrailer in a tractor-semitrailer combination longer than 53 feet and no trailer or semitrailer in a tractor-semitrailer-trailer combination longer than 28 feet shall be operated. However, the limits established by this section shall not be construed in such a manner as to prohibit the use of semitrailers in a tractor-semitrailer combination of such dimensions as were in actual and lawful use in this State on December 1, 1982.

Sec. 248. 23 V.S.A. § 1433 is amended to read:

§ 1433. REASONABLE ACCESS

Reasonable access, within the meaning of 19 V.S.A. § 1111, shall be permitted to those vehicles operating pursuant to the provisions of subsections 1302(c) and 1432(e) of this title between the Dwight D. Eisenhower National System of Interstate and Defense Highway System Highways and any other qualifying Federal-aid Primary System highways, as designated by the Secretary of the U.S. Department of Transportation and the Vermont Secretary

of Transportation, and terminals, facilities for food, fuel, repairs, and rest, and points of loading and unloading for household goods carriers. The Vermont Secretary of Transportation shall by rule pursuant to 3 V.S.A. chapter 25 either designate those portions of the public highways over which such reasonable access shall be permitted or provide for the issuance of permits to allow reasonable access. However, permits shall not be required for tractor-semi-trailer combinations designed for the transportation of automobiles and having provision for transporting motor vehicles on part of the power unit provided the combinations comply with the provisions of subsection 1432(a) of this title.

Sec. 249. 23 V.S.A. § 3010 is amended to read:

§ 3010. TEMPORARY AUTHORIZATION

Any vehicle registered in a jurisdiction other than Vermont that is eligible for motor fuel tax licensing under the International Fuel Tax Agreement Plan and that is not licensed in Vermont for fuel tax reporting purposes may obtain a trip permit prior to entering this State. The fee for the permit shall be \$15.00. The permits shall be valid for a period of 72 hours and shall satisfy motor fuel tax reporting and payment obligations that may arise from the trip. Trip permits must be kept with the vehicle while being operated.

Sec. 250. 23 V.S.A. § 3205(e)(3) and (4) are amended to read:

(3) ~~Replacement exhaust muffler.~~ No person shall sell or offer to sell a replacement exhaust muffler system that will not meet or exceed the exhaust

noise reduction capabilities of the snowmobile manufacturer's original equipment specifications for the snowmobile.

(4) ~~Consumer information on noise levels.~~ Any person selling or offering to sell a snowmobile or replacement muffler system shall include in the specifications ~~thereof~~ precise information concerning the designed maximum sound levels of the snowmobile or replacement muffler system.

Sec. 251. 23 V.S.A. § 3206(b)(14) is amended to read:

(14) On limited access highways, rights-of-way, or approaches unless permitted by the Agency of Transportation. In no case shall snowmobiling be permitted on any portion of the Dwight D. Eisenhower National System of Interstate and Defense Highways unless the Agency of Transportation permits operation on such highways.

Sec. 252. 23 V.S.A. § 3216(b)(5) is amended to read:

(5) to ~~assure~~ ensure that municipal legislative bodies are given advance notice and an opportunity for input before trail or parking lot expansion takes place in the community.

Sec. 253. 23 V.S.A. § 3307a(b)(1)

(1) submit an application, ~~to the Commissioner~~ on the form ~~that~~ approved by the Commissioner requires and be and signed by every owner of the vessel, to the commissioner; and

Sec. 254. 23 V.S.A. § 3311(c)(1) is amended to read:

(1) An individual shall not operate any vessel, except a sailboard or a police or emergency vessel, within 200 feet of the shoreline, ~~a person~~ an individual in the water, a canoe, rowboat, or other vessel, an anchored or moored vessel containing any individual, or anchorages or docks, except at a speed of less than five miles per hour that does not create a wake.

Sec. 255. 23 V.S.A. § 3311(c)(3) is amended to read:

(3) Nothing in this subsection shall prohibit rendering assistance to another ~~person~~ individual, picking up ~~a person~~ an individual in the water, necessary mooring or landing, or leaving shore, or operating in any other place where obstruction, other than the shoreline, would prevent abiding by this statute.

Sec. 256. 23 V.S.A. § 3315(c) is amended to read:

(c) An individual shall not operate or manipulate any vessel, tow rope, or other device by which the direction or location of water skis, a surfboard, or similar device may be affected or controlled in such a way as to cause the water skis, surfboard, or similar device, or any ~~person~~ individual thereon to approach within 100 feet of an individual swimming, or a canoe, rowboat, or other light craft conveying any individual. This subsection does not prohibit necessary mooring or landing, or leaving shore.

Sec. 257. 23 V.S.A. § 3801(11) is amended to read:

(11) “Owner” means a person, other than a lienholder, having property in or title to a vessel, snowmobile, or all-terrain vehicle. The term includes a person entitled to use or possess a vessel, snowmobile, or all-terrain vehicle subject to an interest in another person, which is reserved or created by agreement and ~~securing~~ secures payment ~~of~~ or performance of an obligation, but ~~it~~ does not include a lessee under a lease not intended as security.

Sec. 258. 23 V.S.A. § 4105(c) is amended to read:

(c) Notification of previous employment.

(1) Any individual who applies to be a commercial motor vehicle driver must provide the employer, at the time of the application, with the following information for the 10 years preceding the date of application:

~~(1)~~(A) a list of the names and addresses of the applicant’s previous employers for which the applicant was a driver of a commercial motor vehicle;

~~(2)~~(B) the dates between which the applicant drove for each employer;  
and

~~(3)~~(C) the reason for leaving that employer.

(2) The applicant must certify that all information furnished is true and complete. An employer may require an applicant to provide additional information.

Sec. 259. 23 V.S.A. § 4116(f) is amended to read:

(f) Surrender of license. An individual who is disqualified from driving a commercial motor vehicle shall surrender ~~his or her~~ the individual's Vermont commercial ~~driver~~ driver's license not later than the effective date of the disqualification. Upon receipt of the individual's commercial driver's license, a Class D license shall be issued, provided the individual is otherwise eligible.

Sec. 260. 24 V.S.A. § 4765(6) is amended to read:

(6) a schedule for project implementation; and

Sec. 261. 24 V.S.A. § 5051(15) is amended to read:

(15) "Normal retirement date" means:

(A) ~~"Normal retirement date"~~ for Group A members, ~~means~~ the first day of the calendar month next following the attainment of age 65 and the completion of five years of creditable service or age 55 and completion of 35 years of creditable service;

(B) ~~"Normal retirement date"~~ for Group B members, ~~means~~ the first day of the calendar month next following the attainment of age 62 and the completion of five years of creditable service or age 55 and completion of 30 years of creditable service; and

(C) ~~"Normal retirement date"~~ for Group C and D members, ~~means~~ the first day of the calendar month next following the attainment of age 55 and the completion of five years of creditable service.

Sec. 262. 26 V.S.A. § 2023(a) is amended to read:

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

\* \* \*

Sec. 263. 32 V.S.A. § 3205(d) is amended to read:

~~(d) By January 15, 2012, the Joint Fiscal Office and the Office of Legislative Council shall jointly present a proposal to the Senate Committee on Finance and the House Committee on Ways and Means for the creation of an independent Office of the Taxpayer Advocate. The proposal shall consider the experiences in other states and include the specific duties and functions of the Office, an independent appointment and retention process, a reporting process, and potential funding sources. The Joint Fiscal Office and Office of Legislative Council shall be assisted by the Department of Taxes, and any other executive agency, as necessary in preparing the proposal. [Repealed.]~~

Sec. 264. 32 V.S.A. § 3752(9)(B) is amended to read:

(B) any land, exclusive of any house site, that is:

\* \* \*

(ii) is owned by an organization that was certified by the Commissioner of Taxes as a qualified organization as defined in 10 V.S.A.

§ 6301a and for at least five years preceding its certification was determined by the internal revenue service to qualify as a Section 501(c)(3) organization which is not a private foundation as defined in 26 U.S.C. § 509(a); and

(iii) is under active conservation management in accord with standards established by the Commissioner of Forests, Parks and Recreation.

Sec. 265. 32 V.S.A. § 4041a is amended to read:

§ 4041a. REAPPRAISAL

(a) A municipality shall be paid \$8.50 per grand list parcel per year, from ~~the equalization and reappraisal account within~~ the Education Fund to be used only for reappraisal and costs related to reappraisal of its grand list properties and for maintenance of the grand list.

\* \* \*

(d) A sum not to exceed \$100,000.00 each year shall be paid from ~~the equalization and reappraisal account within~~ the Education Fund to the Division of Property Valuation and Review for the purpose of providing assessment education for municipal assessing officials. The Director is authorized to establish guidelines and requirements for education programs to be provided using the funds described in this section. Education programs provided using funds described in this section shall be provided at no cost or minimal cost to the municipal assessing officials. In addition to providing the annual education programs as described in this section, up to 20 percent of the amount available

for education programs may be reserved as a scholarship fund to permit municipal assessing officials to attend national programs providing education opportunities on advanced assessment topics. All applications for scholarships shall be submitted to and approved by the Director.

Sec. 266. 32 V.S.A. § 5401(7)(A) is amended to read:

(A) “Homestead” means the principal dwelling and parcel of land surrounding the dwelling, owned and occupied by a resident individual as the individual’s domicile or owned and fully leased on April 1, provided the property is not leased for more than 182 days out of the calendar year, or for purposes of the renter ~~property tax~~ credit under subsection 6066(b) of this title, is rented and occupied by a resident individual as the individual’s domicile.

Sec. 267. 32 V.S.A. § 5402(d) is amended to read:

~~(d) A municipality which has upon its grand list an operating electric generating plant subject to the tax under chapter 213 of this title shall be subject to the nonhomestead education property tax at three quarters of the rate provided in subdivision (a)(1) of this section, as adjusted under section 5402b of this chapter; and shall be subject to the homestead education property tax at three quarters of the base rate provided in subdivision (a)(2) of this section, as adjusted under section 5402b of this chapter, and multiplied by its spending adjustment under subdivision 5401(13) of this title. [Repealed.]~~

Sec. 268. 32 V.S.A. § 5405(g) is amended to read:

(g) The Commissioner shall provide to municipalities for the front of property tax bills the district homestead property tax rate before equalization, the nonresidential tax rate before equalization, and the calculation process that creates the equalized homestead and ~~nonresidential~~ nonhomestead tax rates. The Commissioner shall further provide to municipalities for the back of property tax bills an explanation of the common level of appraisal, including its origin and purpose.

Sec. 269. 32 V.S.A. § 5825a(b) is amended to read:

(b) A taxpayer who has received a credit under subsection (a) of this section shall repay to the Commissioner 10 percent of any distribution from a higher education investment plan account, up to a maximum of the total credits received by the taxpayer under subsection (a) of this section minus any amount of repayment of such credits in prior tax years except when the distribution:

\* \* \*

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

\* \* \*

Sec. 270. 32 V.S.A. § 9706(c) is amended to read:

(c) The statutory purpose of the exemption for prescription drugs intended for animal use, durable medical equipment and prosthetics for animal use, and

veterinary supplies in subdivision ~~9741(3)~~ 9741(53) of this title is to lessen the cost of veterinary services in order to support the health and welfare of Vermont animals.

Sec. 271. 33 V.S.A. § 102 is amended to read:

§ 102. DEFINITIONS AND CONSTRUCTION

(a) As used in this chapter:

\* \* \*

(11) “Social Security Act” means the federal Social Security Act and ~~rules and regulations made thereunder~~ promulgated under the Act, as amended at any time.

\* \* \*

Sec. 272. 33 V.S.A. § 104(b) is amended to read:

(b) In addition to other powers vested in it by law, the Department may do all of the following:

\* \* \*

(3) Submit plans and reports, ~~make regulations~~ adopt rules, and in other respects comply with the provisions of the Social Security Act ~~which that~~ that pertain to programs administered by the Department.

\* \* \*

Sec. 273. 33 V.S.A. § 105(b) is amended to read:

(b) In addition to other duties imposed by law, the Commissioner shall:

(1) administer the laws assigned to the Department;

(2) fix standards and ~~issue regulations~~ adopt rules necessary to administer those laws and for the custody and preservation of records of the Department;

(3) appoint all necessary assistants, prescribe their duties, and ~~issue regulations~~ adopt rules necessary to ensure that the assistants shall hold merit system status while in the employ of the Department, unless otherwise specifically provided by law.

Sec. 274. 33 V.S.A. § 111(b) is amended to read:

(b) A person shall not publish, use, disclose, or divulge any of those records for purposes not directly connected with the administration of programs of the Department, or contrary to ~~regulations issued~~ rules adopted by the Commissioner.

Sec. 275. 33 V.S.A. § 143(a) is amended to read:

(a) A person who knowingly violates a provision of this title for which no penalty is specifically provided shall:

(1) ~~if~~ if the assistance or benefits obtained pursuant to a single fraudulent scheme or a course of conduct are in violation of subsection 141(a) or (b) of this title involving \$1,000.00 or less, be fined not more than the amount of assistance or benefits wrongfully obtained; or be imprisoned not more than one year, or both;

(2) ~~If~~ if the assistance or benefits obtained pursuant to a single fraudulent scheme or course of conduct are in violation of subsection (a) or (b) of section 141 of this title, and involve more than \$1,000.00, be fined not more than an amount equal to the assistance or benefits wrongfully obtained, or be imprisoned not more than three years, or both; or

(3) ~~If~~ if the violation is under subsection (c), (d), or (e) of section 141 of this title, be fined up to \$1,000.00, or up to an amount equal to twice the amount of assistance, benefits, or payments wrongfully obtained or be imprisoned for not more than 10 years, or both.

Sec. 276. 33 V.S.A. § 144(a) is amended to read:

(a) Section 143 of this title shall not preclude prosecution under 13 V.S.A. § 1801, 1802, or 2002, when the alleged violation involves forging a ~~welfare~~ economic assistance check or where duplicate ~~welfare~~ economic assistance checks have been wrongfully negotiated during any one welfare period.

Sec. 277. 33 V.S.A. § 151(1) is amended to read:

(1) The Commissioner shall adopt rules governing applications for and issuance, revocation, term, and renewal of licenses and registrations. In the ~~regulations~~ rules, ~~he or she~~ the Commissioner may prescribe standards and conditions to be met, records to be kept, and reports to be filed. Licenses and registration shall be for a term of one year from issuance unless otherwise prescribed by ~~regulation~~ rule.

Sec. 278. 33 V.S.A. § 402(d)(1) is amended to read:

(d)(1) The Advisory Committee shall make policy recommendations on proposals of the Department of Vermont Health Access to the Department, the Green Mountain Care Board, the Health ~~Care~~ Reform Oversight Committee, the Senate Committee on Health and Welfare, and the House Committees on Health Care and on Human Services. When the General Assembly is not in session, the Commissioner shall respond in writing to these recommendations, a copy of which shall be provided to the members of each of the legislative committees of jurisdiction and to the Green Mountain Care Board.

Sec. 279. 33 V.S.A. § 502 is amended to read:

§ 502. DEFINITIONS

As used in this chapter:

\* \* \*

(2) “Americans with Disabilities Act” means the federal Americans with Disabilities Act of 1990 ~~and rules and regulations made thereunder~~ promulgated under the Act, as amended at any time.

\* \* \*

(6) “Older Americans Act” means the federal Older Americans Act of 1965 ~~and rules and regulations adopted thereunder~~ promulgated under the Act, as amended at any time.

\* \* \*

(9) “Rehabilitation Act” means the federal Rehabilitation Act of 1973 ~~and rules and regulations adopted thereunder~~ promulgated under the Act, as amended at any time.

(10) “Social Security Act” means the federal Social Security Act ~~and rules and regulations adopted thereunder~~ promulgated under the Act, as amended at any time.

Sec. 280. 33 V.S.A. § 904(a) is amended to read:

(a) The Director shall establish by rule procedures for determining payment rates for care of State-assisted persons to nursing homes and to such other providers as the Secretary shall direct. The Secretary shall have the authority to establish rates that the Secretary deems sufficient to ensure that the quality standards prescribed by section 7117 of this title are maintained, subject to the provisions of section 906 of this title. Beginning in State fiscal year 2003, the Medicaid budget for care of State-assisted persons in nursing homes shall employ an annual inflation factor ~~which~~ that is reasonable and ~~which~~ that adequately reflects economic conditions, in accordance with the provisions of Section 5.8 of the ~~regulations promulgated~~ rules adopted by the Division of Rate Setting (Methods, Standards, and Principles for Establishing Medicaid Payment Rates for Long-Term Care Facilities).

Sec. 281. 33 V.S.A. § 908(c) is amended to read:

(c) The Secretary shall adopt all rules ~~and regulations~~ necessary for the implementation of this chapter.

Sec. 282. 33 V.S.A. § 909(a) is amended to read:

(a) A nursing home that feels aggrieved by a final order of the Division may do any of the following:

(1) ~~have~~ Have the right of direct appeal to the Vermont Supreme Court pursuant to the Vermont Rules of Civil Procedure and the Vermont Rules of Appellate Procedure under the same terms and conditions as if the appeal were taken to the Supreme Court from the Superior Court pursuant to the laws of Vermont;

(2) ~~have~~ Have the right to appeal de novo to the Superior Court of the county where the nursing home facility is situated;

(3) ~~request~~ Request a review by the Secretary of Human Services. The Secretary of Human Services shall designate an independent appeals officer who shall be a registered or certified public accountant. The appeals officer shall conduct appeal hearings and make findings of fact and recommendations to the Secretary. The appeals officer shall have the power to subpoena witnesses and documents and administer oaths. A party aggrieved by a determination of the Secretary may obtain judicial review under the provisions of subdivision (1) or (2) of this subsection.

Sec. 283. 33 V.S.A. § 910 is amended to read:

§ 910. AVAILABILITY OF PAYMENT FOR NURSING HOME SERVICES

~~In addition to any other reductions required by this act, the~~ The Secretary may, with 90 days' notice to the nursing home, reduce the number of days of nursing home service or the number of nursing home beds for which payments are available under the State/federal medical assistance program in order to meet State budgetary goals, provided that the standards of care required by section 7117 of this title and by rule are maintained.

Sec. 284. 33 V.S.A. § 1001 is amended to read:

§ 1001. DEFINITIONS

As used in this chapter:

(1) ~~“Able to work”~~ “Able to work” means to be free of any physical, emotional, or mental condition that would prevent the individual from engaging in any combination of the work activities for at least 35 hours per week.

(2) ~~“Able to work part time”~~ “Able to work part time” means having a physical, emotional, or mental condition that would allow the individual to engage in any combination of the work activities for at least 10 hours per week but would prevent the individual from engaging in such activities for 35 or more hours per week.

\* \* \*

(6) “Caretaker” means an individual ~~age~~ 18 years of age or older who is fulfilling a parental role in caring for a dependent child by providing physical care, guidance, and decision-making related to the child’s health, school, medical care, and discipline.

\* \* \*

(10) “Dependent child” means a child who is a resident of this State and:

(A) is under ~~the age of~~ 18 years of age; or

(B) is 18 years of age or older who is a full-time student in a secondary school, or attending an equivalent level of vocational or technical training, and is reasonably expected to complete the educational program before reaching ~~the age of~~ 19 years of age or is not expected to complete the educational program before reaching ~~age~~ 19 years of age solely due to a documented disability.

\* \* \*

(24) “Temporary Assistance to Needy Families” or “TANF” means the block grant provided to this State and established in accordance with Part A of Title IV of the federal Social Security Act, as amended, and the regulations ~~adopted pursuant thereto~~ promulgated under the Act by the U.S. Secretary of Health and Human Services.

(25) ~~“Unable to work”~~ “Unable to work” means ~~not able to work~~ able to work and ~~not able to work part time~~ able to work part time.

\* \* \*

Sec. 285. 33 V.S.A. § 1107 is amended to read:

§ 1007. REQUIRED PARTICIPATION

\* \* \*

(b)(1) If an adult does not comply with the following requirements without good cause, the Department shall initiate the conciliation process to determine the reason that the adult has not complied with the requirements and shall modify the requirements, if necessary, or provide the adult with a second opportunity to comply:

\* \* \*

(B) The able-to-work adult in a two-parent family (when the other parent is ~~able to work part time~~ able to work part time or ~~unable to work~~ unable to work) who has no barriers to obtaining and maintaining a job and a recent and stable work history, including receiving wages for his or her most recent job that, when annualized, equal or exceed 150 percent of the federal poverty level applicable to the family, shall report to the Department of Labor for an immediate job search within two working days of having filed an application.

(C) The adult in a two-parent family (when both parents are ~~able to work~~ able to work) who is not the primary caretaker of the children shall report

to the Department of Labor for an immediate job search within two working days of having filed an application.

\* \* \*

(c)(1) If an adult does not comply with the following requirements without good cause, the Department shall initiate the conciliation process to determine the reason that the adult has not complied with the requirements and shall modify the requirements, if necessary:

\* \* \*

(C) Each participating adult shall begin to comply with his or her family development plan requirements as soon as possible, and ~~no~~ not later than 10 days following identification of initial requirements at the initial family development plan meeting. Each participating adult shall continue to comply with such family development plan requirements until such time as the family is ineligible or transferred to Reach Up or Reach Ahead. If a family is transferred to another program, the rules of that program apply.

\* \* \*

Sec. 286. 33 V.S.A. § 1101 is amended to read:

§ 1101. DEFINITIONS

As used in this chapter:

(1) ~~“Able to work”~~ “Able to work” means to be free of any physical, emotional, or mental condition that would prevent the individual from

engaging in any combination of the work activities identified in subdivisions (28)(A) through (E) of this section for at least 35 hours per week.

(2) ~~“Able to work part time”~~ “Able to work part time” means having a physical, emotional, or mental condition that would allow the individual to engage in any combination of the work activities identified in subdivisions (28)(A) through (E) of this section for at least 10 hours per week but would prevent the individual from engaging in such activities for 35 or more hours per week.

\* \* \*

(6) “Caretaker” means an individual ~~age 18~~ years of age or older who is fulfilling a parental role in caring for a dependent child by providing physical care, guidance, and decision-making related to the child’s health, school, medical care, and discipline.

\* \* \*

(10) “Dependent child” means a child who is a resident of this State; and:

(A) is under ~~the age of~~ 18 years of age; or

(B) is 18 years of age or older who is a full-time student in a secondary school, or attending an equivalent level of vocational or technical training, and is reasonably expected to complete the educational program before reaching ~~the age of~~ 19 years of age or is not expected to complete the

educational program before reaching ~~age~~ 19 years of age solely due to a documented disability.

\* \* \*

(26) “Temporary Assistance to Needy Families” or “TANF” means the block grant provided to this State and established in accordance with Part A of Title IV of the federal Social Security Act, as amended, and the regulations promulgated ~~pursuant thereto~~ under the Act by the U.S. Secretary of Health and Human Services.

(27) ~~“Unable to work”~~ “Unable to work” means not ~~able to work~~ able to work and not ~~able to work part time~~ able to work part time.

Sec. 287. 33 V.S.A. § 1201(18) is amended to read:

(18) “Temporary Assistance to Needy Families” or “TANF” means the block grant provided to this State and established in accordance with Part A of Title IV of the federal Social Security Act, as amended, and the regulations promulgated ~~pursuant thereto~~ under the Act by the U.S. Secretary of Health and Human Services.

Sec. 288. 33 V.S.A. § 1301 is amended to read:

§ 1301. ELIGIBILITY REQUIREMENTS—GENERAL

To be eligible for State aid to the aged, blind, or disabled, in addition to the requirements in ~~the following three~~ sections 1301–1303 of this chapter governing eligibility for a specific program, ~~a person~~ an individual shall:

(1) Be a resident of this State when the person applies.

(2) Not have made a voluntary assignment or transfer of property or income for the purpose of qualifying; nor shall ~~his or her~~ the individual's spouse have made a voluntary assignment or transfer of property or income for the purpose of qualifying ~~him or her~~ the individual.

(3) Be a recipient of Federal Supplemental Security Income, if eligible ~~therefor~~.

(4) Not have sufficient income or other resources to provide a reasonable subsistence compatible with decency and health, and not be receiving or able to secure support from persons legally responsible for ~~his or her~~ the individual's support. In determining whether the income of an applicant for or a recipient of aid is sufficient, the Department for Children and Families may disregard, within the limits of available funds, income used to further the purposes of rehabilitation and self-support.

Sec. 289. 33 V.S.A. § 1302 is amended to read:

§ 1302. STATE AID TO THE AGED

State aid to the aged shall be granted to ~~a person~~ an individual who meets the eligibility requirements of section 1301 of this title and who in addition:

- (1) has attained ~~the age of~~ 65 years of age; and
- (2) is not a patient in a public institution, except a public medical institution.

Sec. 290. 33 V.S.A. § 1303 is amended to read:

§ 1303. STATE AID TO THE DISABLED

(a) State aid to the disabled shall be granted to ~~a person~~ an individual who meets the eligibility requirements of section 1301 of this title and who in addition:

\* \* \*

(b) An individual is also considered disabled for purposes of this chapter if ~~he or she~~ the individual was disabled as defined under this chapter and the ~~regulations~~ rules in effect under this chapter on December 31, 1973 and received aid under this chapter for December 1973, ~~so long as he or she~~ provided the individual has been, since that time, continuously disabled.

Sec. 291. 33 V.S.A. § 1304 is amended to read:

§ 1304. STATE AID TO THE BLIND

(a) State aid to the blind shall be granted to ~~a person~~ an individual who meets the eligibility requirements of section 1301 of this title and in addition:

\* \* \*

(b) An individual is also considered blind for purposes of this chapter if ~~he or she~~ the individual was blind as defined under this chapter and the ~~regulations~~ rules in effect under this chapter on December 31, 1973 and received aid under this chapter for December 1973, ~~so long as he or she~~ provided the individual has been, since that time, continuously blind.

Sec. 292. 33 V.S.A. § 1305 is amended to read:

§ 1305. DISQUALIFICATIONS

State aid to the aged, blind, and disabled shall not be granted to any ~~person~~ individual who has real or personal property in excess of that permitted for eligibility for Supplemental Security Income under the Social Security Act as amended.

Sec. 293. 33 V.S.A. § 1306 is amended to read:

§ 1306. APPLICATION AND INVESTIGATION

Applications for State aid to the aged, blind, or disabled may be made at any office of the Department for Children and Families. Upon receipt of an application, the Commissioner for Children and Families shall investigate and prescribe the amount of the grant to be given, if any. No ~~person may~~ individual shall receive more than one type of grant or aid under this chapter.

Sec. 294. 33 V.S.A. § 1307 is amended to read:

§ 1307. AMOUNT OF STATE AID

The amount of State aid to which an eligible ~~person~~ individual is entitled shall be determined with due regard to the income, resources, and maintenance available to ~~him or her~~ the individual and, when an eligible ~~person~~ individual lives with ~~his or her~~ the individual's ineligible spouse or a needy essential person, or both, as defined by the Commissioner, with due regard to the needs of the ineligible spouse and with due regard to the needs, income, and

resources of the needy essential person. ~~As far as~~ To the extent funds are available, aid shall provide a reasonable subsistence compatible with decency and health. The Commissioner for Children and Families may by ~~regulation~~ rule fix maximum amounts of aid and take measures to ~~insure~~ ensure that the expenditures for the programs shall not exceed the funds provided for them.

Sec. 295. 33 V.S.A. § 1308 is amended to read:

§ 1308. ~~REGULATIONS~~ RULES

In fixing standards and ~~issuing regulations~~ adopting rules under this chapter, the Commissioner for Children and Families shall be guided by the statutory standards set forth in this chapter, which standards shall not be deemed necessarily to incorporate by reference decisional or statutory law applicable to the aid to the aged, blind, and disabled program in effect prior to January 1, 1974.

Sec. 296. 33 V.S.A. § 1309 is amended to read:

§ 1309. AGREEMENTS

\* \* \*

(b) In cases ~~where~~ in which the Secretary enters into such agreements with an agency of the federal government, any requirement set forth in this chapter ~~which~~ that is inconsistent with the statutes and regulations of the federal government regarding federal administration of State supplementation of benefits under Title ~~46~~ XVI of the Social Security Act shall be waived.

\* \* \*

(c) The Secretary shall monitor the performance of the agency of the federal government or other public or private entity administering any or all parts of the State aid to the aged, blind, and disabled program. In the event the Secretary determines, in ~~his or her~~ the Secretary's best judgment, that administration by an agency of the federal government or other public or private entity is not in the best ~~interest~~ interests of the citizens of Vermont, ~~he or she~~ the Secretary is hereby authorized to terminate such agreements.

\* \* \*

Sec. 297. 33 V.S.A. § 1806(a) is amended to read:

(a) Prior to contracting with a health insurer to offer a qualified health benefit plan, the Commissioner shall determine that making the plan available through the Vermont Health Benefit Exchange is in the best ~~interest~~ interests of individuals and qualified employers in this State. In determining the best ~~interest~~ interests, the Commissioner shall consider affordability; promotion of high-quality care, prevention, and wellness; promotion of access to health care; participation in the State's health care reform efforts; and such other criteria as the Commissioner, in ~~his or her~~ the Commissioner's discretion, deems appropriate.

Sec. 298. 33 V.S.A. § 1901d(d) is amended to read:

(d) All monies received by or generated to the Fund shall be used only as allowed by appropriation of the General Assembly for the administration and delivery of health care covered through State health care assistance programs administered by the Agency under the Global Commitment ~~for~~ to Health Medicaid Section 1115 waiver, immunizations under 18 V.S.A. § 1130, and the development and implementation of the Blueprint for Health under 18 V.S.A. § 702.

Sec. 299. 33 V.S.A. § 1901e is amended to read:

§ 1901e. GLOBAL COMMITMENT FUND

(a) The Global Commitment Fund is created in the Treasury as a special fund. The Fund shall consist of the revenues received by the Treasurer as payment of the actuarially certified premium from the Agency of Human Services to the managed care organization within the Department of Vermont Health Access for the purpose of providing services under the Global Commitment ~~for~~ to Health waiver approved by the Centers for Medicare and Medicaid Services under Section 1115 of the Social Security Act.

(b) The monies in the Fund shall be disbursed as allowed by appropriation of the General Assembly, and shall be disbursed by the Treasurer on warrants issued by the Commissioner of Finance and Management, when authorized by the Commissioner of Vermont Health Access and approved by the

Commissioner of Finance and Management consistent with the interdepartmental agreements between the managed care organization within the Department of Vermont Health Access and departments delivering eligible services under the waiver. The Department of Vermont Health Access ~~may~~ shall not modify an appropriation through an interdepartmental agreement or any other mechanism. A department or agency authorized to spend monies from this Fund under an interdepartmental agreement may spend monies appropriated as a base Medicaid expense for an allowable managed care organization investment under the terms and conditions of the Global Commitment ~~for~~ to Health Medicaid Section 1115 waiver only after receiving approval from the Agency of Human Services.

(c) Annually, on or before October 1, the Agency shall provide a detailed report to the Joint Fiscal Committee ~~which~~ that describes the managed care organization's investments under the terms and conditions of the Global Commitment ~~for~~ to Health Medicaid Section 1115 waiver, including the amount of the investment and the agency or departments authorized to make the investment.

Sec. 300. 33 V.S.A. § 1908(e)(2) is amended to read:

(2) An insurer shall comply with a request under the provisions of this subsection ~~no~~ not later than 60 days following the date of the Agency's request

and shall be required to provide the Agency with only the information required by this section.

Sec. 301. 33 V.S.A. § 1916 is amended to read:

§ 1916. DEFINITIONS

As used in this subchapter:

(1) “Brand family” ~~shall mean~~ means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors, including “menthol,” “lights,” “kings,” and “100s,” and includes a brand name (alone or in conjunction with any other word), trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes.

(2) “Cigarette” ~~shall have~~ has the same meaning as in subdivision 1913(4) of this title.

(3) “Commissioner” ~~shall mean~~ means the Commissioner of Taxes.

(4) “Wholesale dealer” ~~shall have~~ has the same meaning as in 32 V.S.A. § 7702(16).

(5) “Master Settlement Agreement” ~~shall have~~ has the same meaning as in subdivision 1913(5) of this title.

(6) “Nonparticipating manufacturer” ~~shall mean~~ means any tobacco product manufacturer that is not a participating manufacturer.

(7) “Participating manufacturer” ~~shall have~~ has the same meaning as in section II(jj) of the “Master Settlement Agreement” and all amendments ~~thereto~~ to the Agreement.

(8) “Qualified escrow fund” ~~shall have~~ has the same meaning as in subdivision 1913(6) of this title.

(9) “Retail dealer” ~~shall have~~ has the same meaning as in 32 V.S.A. § 7702(10).

(10) [Repealed.]

(11) “Tobacco product manufacturer” ~~shall have~~ has the same meaning as in subdivision 1913(9) of this title.

(12) “Units sold” ~~shall have~~ has the same meaning as in subdivision 1913(10) of this title.

Sec. 302. 33 V.S.A. § 1917 is amended to read:

§ 1917. CERTIFICATIONS

(a) Every tobacco product manufacturer whose cigarettes are sold in this State, whether directly or through a licensed wholesale dealer, retailer, or similar intermediary or intermediaries, shall execute and deliver on a form prescribed by the Attorney General a certification to the Attorney General ~~no~~ not later than April 30 each year certifying under penalty of perjury that, as of the date of such certification, such tobacco product manufacturer either is a participating manufacturer or is in full compliance with subchapter 1A of this

chapter, including all quarterly installment payments required by section 1922 of this title.

\* \* \*

(c) A nonparticipating manufacturer shall:

\* \* \*

(2) also certify:

\* \* \*

(D) that the nonparticipating manufacturer is in full compliance with this subchapter and any ~~regulations promulgated~~ rules adopted pursuant thereto to this subchapter; and

\* \* \*

Sec. 303 33 V.S.A. § 1918(f) is amended to read:

(f) If a nonparticipating manufacturer who has not been listed on the directory for the previous three years files a certification pursuant to this section, or if the Attorney General determines that a nonparticipating manufacturer who has filed a certification pursuant to this section poses an elevated risk for noncompliance with sections 1912-1914 of this title, neither the nonparticipating manufacturer nor any of its brand families shall be included or retained on the directory unless and until the nonparticipating manufacturer or its U.S. importer that undertakes joint and several liability for the manufacturer's performance in accordance with section 1925 of this title

and amendments ~~thereto~~ to that section has posted a bond in accordance with this subsection. Proof of the bond shall be submitted with the certification on a form approved by the Attorney General.

\* \* \*

Sec. 304. 33 V.S.A. § 1920(c) is amended to read:

(c) Any nonparticipating manufacturer whose cigarettes are sold in this State who has not appointed and engaged an agent as ~~herein~~ required by this section shall be deemed to have appointed the Secretary of State as such agent and may be proceeded against in courts of this State by service of process upon the Secretary of State; provided, however, that the appointment of the Secretary of State as such agent shall not satisfy the condition precedent, required by subsection (a) of this section, for having the individual styles or brands of cigarettes or, if applicable, brand families of the nonparticipating manufacturer included or retained in the directory.

Sec. 305. 33 V.S.A. § 1923(a) is amended to read:

(a) In addition to or in lieu of any other civil or criminal remedy provided by law, upon a determination that a stamping agent has violated this subchapter or any ~~regulation~~ rule adopted pursuant ~~thereto~~ to this subchapter, the Attorney General may, for each violation of this subchapter, also impose a civil penalty in an amount not to exceed the greater of 500 percent of the retail value of the cigarettes sold, offered for sale, or possessed for sale in violation of this

subchapter or \$5,000.00. Each stamp affixed and each sale or offer to sell cigarettes in violation of section 1919 of this subchapter shall constitute a separate violation.

Sec. 306. 33 V.S.A. § 1924(b) is amended to read:

(b) Both the Attorney General and the Commissioner may adopt ~~regulations~~ rules necessary to effect the purposes of this subchapter.

Sec. 307. 33 V.S.A. § 2002(b) is amended to read:

(b) The Commissioner shall negotiate supplemental rebates, price discounts, and other mechanisms to reduce net prescription drug costs by means of any negotiation strategy ~~which~~ that the Commissioner determines will result in the maximum economic benefit to the Program and to consumers in this State, while maintaining access to high quality prescription drug therapies. The Commissioner may negotiate through a purchasing pool or directly with manufacturers. The provisions of this subsection do not authorize agreements with pharmaceutical manufacturers ~~whereby~~ in which financial support for medical services covered by the Medicaid program is accepted as consideration for placement of one or more prescription drugs on the preferred drug list.

Sec. 308. 33 V.S.A. § 2101 is amended to read:

§ 2101. DEFINITIONS

~~Unless otherwise expressly provided, the words and phrases in this chapter~~  
~~mean~~ As used in this chapter:

\* \* \*

(4) “General Assistance” means financial aid to provide the necessities of life including food, clothing, shelter, fuel, electricity, medical care, and other items as the Commissioner may prescribe by ~~regulation~~ rule when a need is found to exist and the applicant is otherwise found eligible.

(5) “House” means a structure ~~wherein~~ in which people live, including a hospital.

(6) “Offense” means any act that gives rise to a cause of action ~~whereby~~ in which the offender is committed to jail, excluding criminal acts.

(7) “Relief or relieving” means General Assistance limited to medical assistance and other assistance required in connection ~~therewith~~ with medical assistance, but excluding financial assistance.

\* \* \*

Sec. 309. 33 V.S.A. § 2103 is amended to read:

§ 2103. ELIGIBILITY

(a) Consistent with available appropriations, the Department for Children and Families shall furnish General Assistance under this chapter, except as

provided ~~below~~ in this section, to any otherwise eligible individual unable to provide the necessities of life for the individual and for those whom ~~he or she~~ the individual is legally obligated to support. Except for those in catastrophic situations as defined in ~~regulations~~ rules, no General Assistance shall be provided in the following situations:

\* \* \*

(b) Eligibility standards for General Assistance as established by the Commissioner need not be the same as those applicable to the Department's categorical assistance programs. In addition, in determining eligibility, the Commissioner, pursuant to ~~regulation~~ rule, may take into account payment to or for the benefit of the applicant under any Department program.

(c) It is further provided that in determining eligibility apart from the need standard, the Commissioner may ~~promulgate~~ adopt a reasonable standard pertaining to work-related efforts on the part of the applicant.

\* \* \*

(e) As used in this section, "able-bodied individual" does not include a person subject to such conditions as are determined, by ~~regulation~~ rule of the Commissioner for Children and Families, to constitute barriers to employment.

(f) [Repealed.]

Sec. 310. 33 V.S.A. § 2104(b) is amended to read:

(b) When a person designated by the Commissioner pursuant to subsection (a) of this section receives an application for General Assistance or is informed that a person is in need of General Assistance, ~~he or she~~ the person so designated shall investigate and make a determination as to the applicant's eligibility for General Assistance, and provide under ~~regulations~~ rules of the Department emergency assistance as may be required.

Sec. 311. 33 V.S.A. § 2109(c) is amended to read:

(c) The Commissioner may provide by ~~regulation~~ rule for an exemption from the notice and report requirements of subsections (a) and (b) of this section in the case of a hospital ~~which~~ that makes and observes satisfactory arrangements considered adequate by the Commissioner. When so exempted, the provisions of the ~~second sentence of section~~ subsection 2110(b) of this chapter shall not apply.

Sec. 312. 33 V.S.A. § 2110 is amended to read:

§ 2110. REIMBURSEMENT FOR RELIEF EXPENDITURES

(a) If the Department fails to provide relief for a person, including a transient, the person or hospital relieving him or her may recover ~~therefor~~ for the relief provided in an action on this statute against the State of Vermont.

(b) ~~However,~~ Notwithstanding (a) of this section, no recovery may be had for any period in excess of 72 hours before notice is given to the Department if

the plaintiff has failed to timely file the information required under subsection 2109(b) of this title.

(c) This section shall only be operative to the extent that funds are appropriated for it by the General Assembly.

Sec. 313. 33 V.S.A. § 2113 is amended to read:

§ 2113. ACTION FOR RECOVERY OF EXPENDITURES

Whenever a person, who has received General Assistance from the Department, owns or thereafter acquires real or personal property or an interest ~~therein~~ in real or personal property or becomes employed, the Department on behalf of the State of Vermont may recover on this statute against ~~him or her~~ the person the amount the Department has expended for General Assistance furnished ~~him or her or his or her~~ to the person or the person's family. If the person is deceased, the amount expended by the Department shall be allowed as a claim against ~~his or her~~ the person's estate as a debt due the State. All statutory exemptions shall apply in the civil action. Statutes of limitations shall not be a defense or bar a debt due the State.

Sec. 314. 33 V.S.A. § 2301(d) is amended to read:

(d) As used in this chapter;

(1) ~~“burial”~~ “Burial” means the final disposition of human remains, including interring or cremating a decedent and the ceremonies directly related to that cremation or interment at the gravesite;

(2) "Department" means the Department for Children and Families; ~~and,~~

(3) ~~"funeral"~~ "Funeral" means the ceremonies prior to burial by interment, cremation, or other method.

Sec. 315. 33 V.S.A. § 2601a(4) is amended to read:

(4) The following individuals shall be presumed not to be members of the same household, provided that the applicant or recipient provides to the Office of Home Heating Fuel Assistance reasonable evidence that such individuals meet the following standards ~~specified below~~ for exclusion from the economic unit:

\* \* \*

Sec. 316. 33 V.S.A. § 2602a(b) is amended to read:

(b) The responsibilities of the Office of Home Energy Assistance shall include:

\* \* \*

(6) preparing a written annual report addressing the ~~above~~ functions set forth in this chapter as well as energy needs, caseload and funding projections, recommendations, if any, for appropriate pilot projects, and, in coordination with the Home Energy Assistance Task Force, recommendations to the General Assembly; and

\* \* \*

Sec. 317. 33 V.S.A. § 3303 is amended to read:

§ 3303. COUNCIL; DUTIES

(a) The Council shall assist State agencies and the departments in the development, improvement, and coordination of primary prevention programs and activities at the State and local levels. In providing this service, the Council shall:

\* \* \*

(3) evaluate and prepare recommendations on the prevention policies and programs developed and implemented under section 3305 of this title and submit ~~such~~ the recommendations on or before January 1 to the Governor, ~~and the Senate and the House Committees on Human Services and on Appropriations, and the Senate Committees on Health and Welfare and on Appropriations.~~

(b) ~~Administer~~ The Council shall administer the Children's Trust Fund as provided in sections 3306 and 3307 of this title.

\* \* \*

Sec. 318. 33 V.S.A. § 3306 is amended to read:

§ 3306. CHILDREN'S TRUST FUND

\* \* \*

(b) The Fund shall be ~~comprised~~ composed of revenues from the following sources:

\* \* \*

(c) All interest accrued or generated by revenue in the Fund shall remain in the Fund and be available for the payment of grants awarded ~~therefrom~~ from the Fund.

\* \* \*

Sec. 319. 33 V.S.A. § 3502 is amended to read:

§ 3502. CHILD CARE FACILITIES; SCHOOL AGE CARE IN PUBLIC  
SCHOOLS; 21ST CENTURY FUND

\* \* \*

(d)(1) ~~Regulations~~ Rules pertaining to child care facilities and family child care homes shall be designed to ensure that children in child care facilities and family child care homes are provided with wholesome growth and educational experiences, and are not subjected to neglect, mistreatment, or immoral surroundings.

\* \* \*

(e) At least each three years, the Department shall review the ~~regulations~~ rules for licensure and registration for revision or updating.

\* \* \*

Sec. 320. 33 V.S.A. § 3503(a) is amended to read:

(a) ~~For the purpose of~~ As used in this chapter, “corporal punishment” means the intentional infliction of physical pain upon the body of a child as a disciplinary measure.

Sec. 321. 33 V.S.A. § 3531(b) is amended to read:

(b) The Program shall be supported from a special fund, to be known as the “Building Bright Spaces for Bright Futures Fund,” ~~hereinafter~~ referred to in this section as “the Bright Futures Fund,” hereby created for this purpose to be administered by the Commissioner for Children and Families. Subject to approvals required by 32 V.S.A § 5, the Fund may accept gifts and donations from any source, and the Commissioner may take appropriate actions to encourage contributions and designations to the account, including publicizing explanations of the purposes of the Fund and the uses to which the Bright Futures Fund has been or will be applied.

Sec. 322. 33 V.S.A. § 3605 is amended to read:

§ 3605. RIGHTS OF THE STATE

Nothing in this chapter shall be construed to interfere with the right of the State to:

\* \* \*

(3) comply with federal and State laws, rules, and regulations regarding child care and child care subsidies;

(4) enforce child care ~~regulations~~ rules and regulatory processes, including ~~regulations~~ rules regarding the qualifications of early care and education providers and the prevention of abuse in connection with the provisions of child care services;

(5) develop child care ~~regulations~~ rules and regulatory processes subject to the rulemaking authority of the General Assembly and the Human Services Board;

\* \* \*

Sec. 323. 33 V.S.A. § 3607 is amended to read:

§ 3607. PETITIONS FOR ELECTION; FILING; INVESTIGATIONS;  
HEARINGS; DETERMINATIONS

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

\* \* \*

(c) In determining whether or not a question of representation exists, the Board shall apply the same ~~regulations and~~ rules of decision-making regardless of the identity of the persons filing the petition or the kind of relief sought.

(d) Nothing in this chapter prohibits the waiving of hearings by stipulation for a consent election in conformity with ~~regulations and~~ rules of the Board.

\* \* \*

Sec. 324. 33 V.S.A. § 3610(c) is amended to read:

(c) The agreement shall terminate at the expiration of its specified term. Negotiations for a new agreement ~~to take effect upon the expiration of the preceding agreement~~ shall be commenced, upon the request of either party, at any time within one year ~~next preceding~~ before the expiration date ~~upon the request of either party and may be commenced at any time previous thereto with the consent of both parties of the current agreement.~~ The parties may mutually agree to commence negotiations for a new collective bargaining agreement more than one year before the expiration date of the current agreement.

Sec. 325. 33 V.S.A. § 3615 is amended to read:

§ 3615. ~~RULES AND REGULATIONS~~

The Board shall make and may amend, ~~and~~ rescind, and adopt such rules ~~and regulations~~ consistent with this chapter as may be necessary to carry out the provisions of this chapter.

Sec. 326. 33 V.S.A. § 3701 is amended to read:

§ 3701. PARENT-CHILD CENTER PROGRAM; ELIGIBILITY

\* \* \*

(b) The Secretary of Human Services shall:

(1) upon applications made annually, award grants to eligible parent-child centers; and

\* \* \*

(d) A parent-child center funded under this chapter shall:

\* \* \*

(2) provide such financial or programmatic information as may be necessary to enable the Secretary of Human Services to evaluate the services provided through grant funds, the effect of such services on consumers of these services, and an accounting of the expenditure of grant funds; and

\* \* \*

Sec. 327. 33 V.S.A. § 3902(c) is amended to read:

(c) Whenever a support obligation is in effect against a responsible parent for the benefit of a dependent child or a custodial parent, payments required ~~thereunder~~ under the support obligation shall be sent to the Office of Child Support upon notice to the responsible parent, without further order of the ~~Court~~ court. When an assignment is in effect pursuant to subsection (a) of this section, any amounts accrued under the support obligation as of the date of assignment, and any amount accruing while the assignment is in effect, shall be owing to and payable to the Department for Children and Families without further order of the ~~Court~~ court.

Sec. 328. 33 V.S.A. § 4106(f)(1) is amended to read:

(1) The amount of child support indicated by the guidelines shall be presumed to be in the child's best ~~interest~~ interests, but other relevant

information ~~which~~ that is readily available, including information provided by the parents, shall be considered together with the factors set out in 15 V.S.A. § 659.

Sec. 329. 33 V.S.A. § 4301(2)(H) is amended to read:

(H) be developed with the opportunity for participation from parents, a guardian, or a surrogate parent appointed pursuant to ~~P.L.~~ Pub. L. No. 94- 142.

Sec. 330. 33 V.S.A. § 4602(d) is amended to read:

(d) For Council meetings held when the General Assembly is not in session, the legislative members of the Council shall be entitled to per diem compensation and reimbursement of expenses in accordance with 2 V.S.A. § ~~406~~ § 23. Members of the Council who are not State employees or whose participation is not supported through their employment or association may be entitled to compensation and reimbursement for expenses for attending meetings of the Council under 32 V.S.A. § 1010 to the extent funds are available.

Sec. 331. 33 V.S.A. § 4603(4) is amended to read:

(4) Review and formulate recommendations for amendments or revisions to policies, or rules, ~~or regulations~~ that may impede the ability to address State and local priorities and the ability to ensure system effectiveness.

Sec. 332. 33 V.S.A. § 4702(a) is amended to read:

(a) ~~Definitions.~~ As used in this chapter:

\* \* \*

Sec. 333. 33 V.S.A. § 4902 is amended to read:

§ 4902. DEFINITIONS

~~Unless otherwise specifically provided, as~~ As used in this chapter:

(1) “Child” means a person under 18 years of age committed by the ~~Juvenile~~ Family Division of the Superior Court to the Department for Children and Families.

\* \* \*

Sec. 334. 33 V.S.A. § 4903(4) is amended to read:

(4) Providing substitute parental care and custody for a child upon application of his or her parent, guardian, or any person acting in behalf of the child, when after investigation it is found that the care and custody will be in the best ~~interest~~ interests of the child. The acceptance of a child by the Department shall not abrogate parental rights or responsibilities, but the Department may accept from the parents temporary delegation of certain rights and responsibilities necessary to provide care and custody for a period of up to six months under conditions agreed upon by the parents and the Department. Upon a stipulation approved by the ~~Juvenile~~ Family Division of the Superior Court, the period may be extended for additional periods of up to six months

each, provided that each extension is first determined by the parties to be necessary, and that it is in the best ~~interest~~ interests of the child.

Sec. 335. 33 V.S.A. § 4913(g) is amended to read:

(g) The name of and any identifying information about either the person making the report or any person mentioned in the report shall be confidential unless:

\* \* \*

(2) a Human Services Board proceeding or a judicial proceeding results ~~therefrom~~ from the report;

\* \* \*

Sec. 336. 33 V.S.A. § 4918(b) is amended to read:

(b) Multidisciplinary teams may also provide public informational and educational services to the community about identification, treatment, and prevention of child abuse and neglect. ~~It~~ They shall also foster communication and cooperation among professionals and organizations in ~~its~~ their community, and provide such recommendations or changes in service delivery as ~~it deems~~ they deem necessary.

Sec. 337. 33 V.S.A. § 6305(b) is amended to read:

(b) In a form and manner and at intervals prescribed by the Commissioner, the Commissioner shall collect and analyze data regarding access to and the cost and quality of home health services in Vermont. Such data shall include:

information on complaints, waiting lists, numbers of individuals ineligible for services, numbers of individuals eligible for but not provided services, numbers of patients served under ~~and over~~ 65 years of age and 65 years of age and over, total number of visits and hours provided to patients by each of the existing home health agencies; the results of patient surveys conducted by the home health agencies; data pertaining to federal and State surveys; scoring by any national accrediting organization; charitable and subsidized programs and services for uninsured or low income persons in their respective communities; copies of audited financial statements and annual cost reports; and any other quality measures or data deemed relevant by the Commissioner to monitor and evaluate access to and the cost and quality of home health services by the designated home health agencies.

Sec. 338. 33 V.S.A. § 6306(f) is amended to read:

(f) In authorizing the agreements and understandings of the types specified in subsection (a) of this section and the activities conducted ~~thereunder~~ under those agreements and understandings, the General Assembly intends that its action have the effect of permitting and granting State action immunity for any actions that might otherwise be considered to be in violation of State or federal antitrust laws, in order to accomplish the public policy objectives of this subchapter.

Sec. 339. 33 V.S.A. § 6501(4) is amended to read:

(4) “Physician” ~~shall be defined as that word is defined for purposes of Medicare under~~ has the same meaning as in 42 U.S.C. § 1395x(r).

Sec. 340. 33 V.S.A. § 6502 is amended to read:

§ 6502. BALANCE BILLING PROHIBITED

A physician who agrees to treat a Medicare or General Assistance beneficiary shall not balance bill the beneficiary except as ~~hereinafter~~ provided in section 6503 of this chapter.

Sec. 341. 33 V.S.A. § 6703(b) is amended to read:

(b) The Commissioner shall not be required to enter into contracts under this section if both of the following conditions are met:

(1) ~~the~~ The amount of the State’s share of recoveries to the Medicaid program from awards obtained under this chapter during the preceding year did not exceed the payments to the contractors during that year; ~~and,~~

(2) ~~the~~ The Commissioner determines that the program is not accomplishing its goal of protecting dual eligible individuals from improper denials of Medicare coverage. The Commissioner shall base ~~his or her~~ this determination ~~under this subdivision~~ on information obtained from the contractors, providers of health care, area agencies on aging, and other individuals and organizations affected by the program.

Sec. 342. 33 V.S.A. § 6705(b) is amended to read:

(b) The Department of Vermont Health Access or its designee shall be entitled to obtain from any medical service provider any records of the treatment of any individual covered by subsection (a) of this section ~~which~~ that are in any way relevant to the treatment paid for through medical assistance without regard to any other privilege or right of confidentiality or privacy ~~which~~ that may exist. The Department shall ensure that any records obtained are not released to any other individual, agency, or other entity except ~~insofar~~ as is necessary to pursue the Department's rights of subrogation.

Sec. 343. 33 V.S.A. § 6706 is amended to read:

§ 6706. INDEPENDENT ANALYSIS

The Commissioner of Financial Regulation shall adopt rules ~~for the~~ to ensure an in-depth independent analysis by an expert, or experts, of proposed Medicare ~~Supplement~~ supplement insurance policy rate increases. This analysis shall be performed only when the composite average rate increase requested by insurers with 5,000 or more lives in the Vermont Medicare ~~Supplement~~ supplement insurance policy market exceeds three percent, or when the Commissioner finds that the proposed premium and policy changes will have a comparable adverse impact on availability or cost of coverage, or when it otherwise appears to be in the best ~~interest~~ interests of the insureds. A composite average rate is the enrollment-weighted average

rate increase of all plans offered by a carrier. The independent analyst shall be made available to the public during the analysis, and for the purpose of providing assistance with and testimony in connection with Medicare ~~Supplement~~ supplement insurance policy rate increase proposals. The cost for the analysis shall be assessed to the affected policy or certificate holders.

Sec. 344. 33 V.S.A. § 6902 is amended to read:

§ 6902. DEFINITIONS

As used in this chapter:

(1) “Abuse” means:

(A) Any treatment of a vulnerable adult ~~which~~ that places life, health, or welfare in jeopardy or ~~which~~ is likely to result in impairment of health.

\* \* \*

(E) Intentionally subjecting a vulnerable adult to behavior ~~which~~ that should reasonably be expected to result in intimidation, fear, humiliation, degradation, agitation, disorientation, or other forms of serious emotional distress.

\* \* \*

(2) “Caregiver” means a person, agency, facility, or other organization with responsibility for providing subsistence or medical or other care to an adult who is an elder or has a disability, who has assumed the responsibility voluntarily, by contract, or by an order of the ~~Court~~ court; or a person

providing care, including medical care, custodial care, personal care, mental health services, rehabilitative services, or any other kind of care provided ~~which~~ that is required because of another's age or disability.

\* \* \*

(7)(A) "Neglect" means purposeful or reckless failure or omission by a caregiver to:

\* \* \*

(iii) carry out a plan of care for a vulnerable adult when such failure results in or could reasonably be expected to result in physical or psychological harm or a substantial risk of death to the vulnerable adult, unless the caregiver is acting pursuant to the wishes of the vulnerable adult or his or her representative, or an advance directive, as defined in 18 V.S.A. § 9701; or

\* \* \*

(B) Neglect may be repeated conduct or a single incident ~~which~~ that has resulted in or could be expected to result in physical or psychological harm, as a result of subdivisions (A)(i), (ii), or (iii) of this subdivision (7).

\* \* \*

Sec. 345. 33 V.S.A. § 6911 is amended to read:

§ 6911. RECORDS OF ABUSE, NEGLECT, AND EXPLOITATION

(a)(1) Information obtained through reports and investigations, including the identity of the reporter, shall remain confidential and shall not be released absent a court order, except as follows:

(A)(i) The investigative report shall be disclosed only to:

(I) the Commissioner or person designated to receive such records;

(II) persons assigned by the Commissioner to investigate reports;

(III) the person reported to have abused, neglected, or exploited a vulnerable adult;

(IV) the vulnerable adult or his or her representative;

(V) the Office of Professional Regulation when deemed appropriate by the Commissioner;

(VI) the Secretary of Education when deemed appropriate by the Commissioner;

(VII) the Commissioner for Children and Families or designee for purposes of review of expungement petitions filed pursuant to section 4916c of this title;

(VIII) the Commissioner of Financial Regulation when deemed appropriate by the Commissioner for an investigation related to financial exploitation;

(IX) a law enforcement agency; and  
(X) the State's Attorney, or the Office of the Attorney General,  
when the Department believes there may be grounds for criminal prosecution  
or civil enforcement action, or in the course of a criminal or a civil  
investigation.

(ii) When disclosing information pursuant to this subdivision,  
reasonable efforts shall be made to limit the information to the minimum  
necessary to accomplish the intended purpose of the disclosure, and no other  
information, including the identity of the reporter, shall be released absent a  
court order.

\* \* \*

(c) The Commissioner or designee may disclose Registry information only  
to:

- (1) The State's Attorney or the Attorney General.
- (2) The public as required by the Nursing Home Reform Act of 1986  
and regulations ~~thereunder~~ promulgated under the Act.

\* \* \*

Sec. 346. 33 V.S.A. § 6912(c)(3) is amended to read:

(3) An agency, facility, or institution ~~which~~ that provides home-based  
services shall:

(A) display the poster required by this subsection in its principal place of business; and

(B) provide a written notice ~~which~~ that includes all information contained on the poster to each vulnerable adult for whom services are provided.

Sec. 347. 33 V.S.A. § 6931 is amended to read:

§ 6931. DEFINITIONS

In addition to the definitions in section 6902 of this title, ~~for the purposes of~~ as used in this subchapter, “interested person” means a representative of the vulnerable adult; the Commissioner of Disabilities, Aging, and Independent Living; or the Commissioner’s designee.

Sec. 348. 33 V.S.A. § 6951(4) is amended to read:

(4) “Vulnerable adult” ~~shall have~~ has the same meaning as in section 6902 of this chapter.

Sec. 349. 33 V.S.A. § 6952(b) is amended to read:

(b)~~(1)~~ Remedies.

(1) If the court finds that financial exploitation of a vulnerable adult has occurred, the court shall grant appropriate relief to the vulnerable adult, which may include money damages, injunctive relief, reasonable costs, attorney’s fees, and equitable relief.

\* \* \*

Sec. 350. 33 V.S.A. § 6961(b) is amended to read:

(b)(4) Membership.

(1) The Team shall comprise the following members:

\* \* \*

Sec. 351. 33 V.S.A. § 7102 is amended to read:

§ 7102. DEFINITIONS

As used in this chapter:

(1) “Assisted living residence” means a program ~~which~~ that combines housing, health, and supportive services for the support of resident independence and aging in place. Within a homelike setting, assisted living units offer, at a minimum, a private bedroom, private bath, living space, kitchen capacity, and a lockable door. Assisted living promotes resident self-direction and active participation in decision-making while emphasizing individuality, privacy, and dignity.

\* \* \*

(7) “Nursing home” means an institution or distinct part of an institution ~~which~~ that is primarily engaged in providing to its residents any of the following:

\* \* \*

(C) on a 24-hour basis, health-related care and services to individuals who, because of their mental or physical condition, require care, and services ~~which~~ that can be made available to them only through institutional care.

\* \* \*

(10) “Residential care home” means a place, however named, excluding a licensed foster home, ~~which~~ that provides, for profit or otherwise, room, board, and personal care to three or more residents unrelated to the home operator. Residential care homes shall be divided into two groups, depending upon the level of care they provide, as follows:

\* \* \*

(11) “Therapeutic community residence” means a place, however named, excluding hospitals as defined by statute, ~~which~~ that provides, for profit or otherwise, transitional individualized treatment to three or more residents with major life adjustment problems, such as ~~alcoholism, drug abuse~~ a substance use disorder, psychiatric disability, or delinquency.

\* \* \*

Sec. 352. 33 V.S.A. § 7105 is amended to read:

§ 7105. LICENSE REQUIREMENTS

(a) Upon receipt of an application for license, the licensing agency shall issue a full license when it has determined that the applicant and facilities meet the standards established by the licensing agency. Licenses issued ~~hereunder~~

under this chapter shall expire one year after date of issuance, or upon such uniform dates annually as the licensing agency may prescribe by ~~regulation~~ rule. Licenses shall be issued only for the premises and persons named in the application and shall not be transferable or assignable. Licenses shall be posted in a conspicuous place on the licensed premises.

(b) In its discretion, the licensing agency may issue a temporary license permitting operation of a nursing home, assisted living residence, therapeutic community residence, residential care home, or home for persons who are terminally ill for such period or periods and subject to such conditions as the licensing agency deems proper, but in no case shall a nursing home, assisted living residence, therapeutic community residence, residential care home, or home for persons who are terminally ill operate under a temporary license or renewal ~~thereof~~ of a temporary license for a period exceeding 36 months.

\* \* \*

Sec. 353. 33 V.S.A. § 7107 is amended to read:

§ 7107. UNLICENSED HOMES

\* \* \*

(b) No physician, surgeon, osteopath, chiropractor, or physician assistant licensed, certified, or registered under the provisions of Title 26; ~~any~~ resident physician, intern, or any hospital administrator in any hospital in this State; ~~any~~ registered nurse, licensed practical nurse, medical examiner, psychologist,

mental health professional, social worker, probation officer, police officer, nursing home administrator, or employee; or ~~any~~ owner, operator, or employee of a facility shall knowingly place, refer, or recommend placement of a person to such a facility if that facility is operating without a license.

\* \* \*

(e)(1) Within 30 days ~~of~~ following the date on which a license to operate any facility pursuant to this section is revoked or voluntarily relinquished, the operator shall obtain a new license or shall cause all of the residents in the facility to be moved promptly.

\* \* \*

Sec. 354. 33 V.S.A. § 7108(d) is amended to read:

(d) The living quarters of the manager of a facility, for purposes of this chapter, may be subject to inspection only ~~where~~ if the inspector has reason to believe the permissible capacity of the facility has been exceeded and only for the purpose of determining if such a violation exists. The inspector shall permit the manager to accompany ~~him or her~~ the inspector on such an inspection.

Sec. 355. 33 V.S.A. § 7111 is amended to read:

§ 7111. ENFORCEMENT; PROTECTION OF RESIDENTS

(a) The licensing agency shall enforce the provisions of this chapter to protect residents of facilities.

(b) The licensing agency may require a facility to take corrective action to eliminate a violation of a rule or provision of this chapter within a specified period of time. If the licensing agency does require corrective action, the following provisions shall apply:

(1) ~~the~~ The licensing agency may, within the limits of resources available to it, provide technical assistance to the facility to enable it to comply with the provisions of this chapter;

(2) ~~the~~ The facility shall provide the licensing agency with proof of correction of the violation within the time specified; ~~and~~.

(3) ~~if~~ If the facility has not corrected the violation by the time specified, the licensing agency may take such further action as it deems appropriate under this section.

\* \* \*

(d) The licensing agency may, after notice and an opportunity for a hearing, suspend, revoke, modify, or refuse to renew a license upon any of the following grounds:

\* \* \*

(2) conviction of a crime for conduct ~~which~~ that demonstrates the unfitness of the licensee or the principal owner to operate a facility under this chapter;

\* \* \*

(e) In the interest of the public health, and safety, and pursuant to the provisions for the summary suspension of a license in 3 V.S.A. § 814(c), the licensing agency shall suspend the license of a nursing home ~~which~~ that has been administered by a provisional administrator licensed under 18 V.S.A. § 2061 for the preceding 90 days and which nursing home is not presently administered by an administrator who is permanently licensed under 18 V.S.A. § 2055.

(f) The licensing agency may suspend admissions to a facility or transfer residents from a facility to an alternative placement, or both, for a violation ~~which~~ that may directly impair the health, safety, or rights of residents or for operating without a license. Residents subject to transfer shall:

\* \* \*

(g) The licensing agency, the Attorney General, or a resident may bring an action for injunctive relief against a facility in accordance with the Rules of Civil Procedure to enjoin any act or omission ~~which~~ that constitutes a violation of this chapter or rules adopted pursuant to this chapter.

\* \* \*

Sec. 356. 33 V.S.A. § 7115 is amended to read:

§ 7115. EXCEPTION

Nothing in this chapter or the rules ~~and regulations~~ adopted pursuant ~~thereto~~ to this chapter shall be construed as authorizing the supervision, regulation, or

control of the remedial care or treatment of residents or patients in any home or institution conducted for those who rely upon treatment by prayer or spiritual means in accordance with the creed or tenets of a recognized church or religious denomination, except as to the sanitary and safe condition of the premises, cleanliness of operation, and its physical equipment.

Sec. 357. 33 V.S.A. § 7202(a)(3) is amended to read:

(3) a facility is in substantial or habitual violation of the standards of health, safety, or resident care established under State rules or federal regulations to the detriment of the welfare of the residents or clients;

Sec. 358. 33 V.S.A. § 7206(e) is amended to read:

(e) An order appointing a receiver under this chapter has the effect of a license for the duration of the receivership and of suspending the license of the licensee. The receiver shall be responsible to the court for the conduct of the facility during the receivership, and a violation of rules and regulations governing the conduct of the facility, if not promptly corrected, shall be reported by the licensing agency to the court. The order shall not remove the obligation of the receiver to comply with all relevant ~~federal and~~ State rules and federal regulations applicable to the facility.

Sec. 359. 33 V.S.A. § 7207(b)(4) is amended to read:

(4) remedy violations of ~~federal and~~ State rules and federal regulations governing the operation of the facility;

Sec. 360. 33 V.S.A. 7208 is amended to read:

§ 7208. LIMITATIONS; CORRECTIONS OF CONDITIONS

(a)(1) Except as provided ~~for~~ in subsection (b) of this section, if the total cost of correcting conditions that constituted grounds for the receivership and violations of ~~federal and State~~ rules and federal regulations governing the operation of the facility or of other health and safety issues exceeds \$5,000.00, the receiver shall notify the mortgage holder, licensee, and owner of the conditions needing correcting and the estimated amount needed to correct the condition.

\* \* \*

(b) If the condition constitutes a situation, physical condition, or a practice, method, or operation ~~which~~ that presents imminent danger of death or serious physical or mental harm to residents and the estimate ~~and~~ of the total cost of the correction exceeds \$10,000.00, the receiver shall notify the mortgage holder, owner, and licensee who may object to the ~~Court~~ court as provided ~~for~~ in subsection (a) of this section. The receiver may proceed with the corrections pending a hearing and order of the ~~Court~~ court.

Sec. 361. 33 V.S.A. § 7211 is amended to read:

§ 7211. LIMITATIONS; CLOSURE OF THE FACILITY

(a) The receiver ~~may~~ shall not close the facility without leave of the ~~Court~~ court.

(b) The ~~Court~~ court shall consider the protection of residents and shall prevent the closure of facilities that, under proper management, are likely to be financially viable. This section ~~may~~ shall not be construed as a method of financing major repair or capital improvements to facilities that have been allowed to deteriorate because the owner or licensee has been unable or unwilling to secure financing by conventional means.

\* \* \*

Sec. 362. 33 V.S.A. § 7214(e) is amended to read:

(e) Notwithstanding any provision of this section to the contrary, there ~~may~~ shall not be a foreclosure or eviction during the receivership by any person if the foreclosure or eviction would, in view of the ~~Court~~ court, serve to defeat the purpose of the receivership.

Sec. 363. 33 V.S.A. § 7216(d) is amended to read:

(d) A receivership ~~may~~ shall not be terminated in favor of the former or the new licensee; unless that person assumes all obligations incurred by the receiver and provides collateral or other assurances of payment considered sufficient by the ~~Court~~ court.

Sec. 364. 33 V.S.A. § 7301 is amended to read:

#### § 7301. NURSING HOME RESIDENTS' BILL OF RIGHTS

The General Assembly hereby adopts the Nursing Home Residents' Bill of Rights as follows:

\* \* \*

(2) The staff of the facility shall ensure that, at ~~least~~ a minimum, each individual admitted to the facility:

\* \* \*

(B) Is fully informed, prior to or at the time of admission and during the stay, of services available in the facility, ~~and~~ of related charges, including any charges for services not covered under Title XVIII or XIX of the Social Security Act, or not covered by the facility's basic per diem rate, including the facility's policy on providing toiletries, adult briefs, wheelchairs, and all personal care and medical items. The facility shall inform residents in writing about Medicaid and Medicare eligibility and what is covered under those programs, including information on resource limits and allowable uses of the resident's income for items and services not covered by Medicaid and Medicare. The facility shall inform residents or their guardians or agents in writing about eligibility for hospice services and the circumstances under which hospice services may be available.

\* \* \*

(D) Is transferred or discharged only for medical reasons, or for the resident's welfare or that of other residents, or for nonpayment of the resident's stay (except as prohibited by Title XVIII or XIX of the Social Security Act), and is given reasonable advance notice to ensure orderly transfer or discharge,

and such actions are documented in the resident's medical record. Residents shall be notified in writing of the proposed transfer or discharge and reasons for it at least 72 hours before a transfer within the facility and 30 days before a discharge from the facility. In cases ~~where~~ in which the health or safety of individuals would be endangered, or an immediate transfer or discharge is required by the resident's urgent medical needs, notice shall be made as soon as practicable before transfer or discharge. Notice shall explain the resident's right to appeal the proposed action, under the facility's grievance procedure and shall include the address and phone number of the area ombudsman. The resident informed of this right may choose to relocate before the notice period ends. The facility shall make reasonable efforts to accommodate new residents without disrupting room assignments.

\* \* \*

(O) Shall have the right to choose the resident's own personal physician, and the right to request a second opinion from a physician of the resident's choice ~~where~~ if significant alternatives for care or treatment exist, ~~or when.~~ If the resident requests information concerning care or treatment alternatives, the resident has the right to receive such information from the resident's doctor or the administrators as appropriate.

\* \* \*

Sec. 365. 33 V.S.A. § 7302(b) is amended to read:

(b) A resident grievance mechanism plan shall include a method by which each resident filing a grievance will be made aware of the State Long-Term Care Ombudsman Program and that the Ombudsman may be contacted as an alternative or in addition to the home's grievance mechanism. As used in this section, "Ombudsman" refers to means the State Long-Term Care Ombudsman Program established within the Vermont Department of Disabilities, Aging, and Independent Living in chapter 75 of this title pursuant to the Older Americans Act of 1965, as amended.

Sec. 366. 33 V.S.A. § 7303 is amended to read:

§ 7303. NOTICE TO RESIDENTS; POSTING

(a) A summary of the obligations of the nursing home to residents using its facilities shall be written in clear language, in easily readable print, and posted conspicuously in a public place on each floor of the home. This notice shall also summarize the facility's grievance procedure and directions for contacting the Office of the State Long-Term Care Ombudsman program. The directions for contacting the Office of the State Long-Term Care Ombudsman program shall be written by the Department of Disabilities, Aging, and Independent Living, shall include a description of the Ombudsman program, and shall be underscored.

(b) A readable copy of this same notice shall be presented to each resident on admission together with an oral explanation of the rights, grievance procedure, and directions for contacting the Office of the State Long-Term Care Ombudsman program.

Sec. 367. 33 V.S.A. § 7305 is amended to read:

§ 7305. READMISSION

Notwithstanding any provision of this chapter to the contrary, a facility may petition the Commissioner of Disabilities, Aging, and Independent Living to deny readmission to the facility of any former resident returning from a period of hospitalization. A petition shall be made as soon as possible after the hospitalization of the resident and only shall be granted if in the judgment of the Commissioner, upon consultation with the State Long-Term Care Ombudsman, the resident has exhibited a nonremedial pattern of violent behavior ~~which~~ that poses a danger to others.

Sec. 368. 33 V.S.A. § 7503(2) is amended to read:

(2) analyze and monitor the development and implementation of federal, State, and local laws and of rules, regulations, and policies relating to long-term care, long-term care facilities, or providers of long-term care and recommend changes it deems appropriate;

Sec. 369. 33 V.S.A. § 7602(a)(1) is amended to read:

(a)(1) The Department shall calculate savings and investments in Choices for Care and report the amount of savings to the Joint Fiscal Committee, ~~and~~ the House Committees on Appropriations and on Human Services, ~~and to~~ the Senate Committees on Appropriations and on Health and Welfare ~~by~~ on or before September 15 of each year. The Department shall not reduce the base funding needed in a subsequent fiscal year prior to calculating savings for the current fiscal year.

Sec. 370. 33 V.S.A. § 8002 is amended to read:

§ 8002. DEFINITIONS

~~In~~ As used in this chapter:

\* \* \*

(3) “Disability certification” means a certification to the satisfaction of the Secretary by the individual or the parent or guardian of the individual that:

(A) certifies that:

(i) the individual has a medically determinable physical or mental impairment, ~~which that~~ that results in marked and severe functional limitations; and ~~which that~~ that can be expected to result in death or ~~which that~~ that has lasted or can be expected to last for a continuous period of not less than 12 months, or the individual is blind within the meaning of Section 1614(a)(2) of the Social Security Act; and

\* \* \*

(5) “Financial organization” means an organization that is authorized to do business in this State and that is:

\* \* \*

(6) ~~“Member of family” means a brother, sister, stepbrother, or stepsister of a designated beneficiary. [Repealed.]~~

(7) “Qualified disability expense” means an expense related to the eligible individual’s blindness or disability ~~which~~ that is made for the benefit of an eligible individual who is the designated beneficiary, including the following expenses: education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and other expenses, ~~which~~ that are approved by the Secretary ~~under regulations~~ by regulation and consistent with the purposes of this section.

\* \* \*

#### Sec. 371. INTERPRETATION

It is the intent of the General Assembly that the technical amendments in this act shall not supersede substantive changes contained in other bills enacted by the General Assembly during the current biennium. Where possible, the amendments in this act shall be interpreted to be supplemental to other

amendments of the same sections of statute; to the extent the provisions conflict, the substantive changes in other acts shall take precedence over the technical changes of this act.

Sec. 372. EFFECTIVE DATE

This act shall take effect on July 1, 2021.