By Representative Smith and others,

By Senator Westman,

H.C.R. 252.

House concurrent resolution honoring Elise McKenna for her outstanding work on the Blueprint for Health in the Lamoille County Health Service Area.

By All Members of the House,

By Senators Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White and Zuckerman,

H.C.R. 253.

House concurrent resolution in memory of Donald G. Milne of Washington, the respected former Clerk of the House.

By Representative Smith,

By Senators Ayer and Bray,

H.C.R. 255.

House concurrent resolution honoring AJ Piper for his conscientious leadership and community-centered service on the Weybridge Selectboard.

By Representative Smith,

By Senators Ayer and Bray,

H.C.R. 256.

House concurrent resolution honoring Steve Huestis for his outstanding civic service in the town of Bridport.

By Representative Smith,

By Senators Ayer and Bray,

H.C.R. 257.

House concurrent resolution honoring Warren Whitcomb, in recognition of his exemplary municipal civic leadership in the town of New Haven.

By Representative Smith,

By Senators Ayer and Bray,

H.C.R. 258.

House concurrent resolution honoring Earl Bessette for his community engagement and civic service in the town of New Haven.

By Representatives Partridge and Trieber,

H.C.R. 259.

House concurrent resolution honoring Rockingham Selectboard Chair Thomas H. MacPhee on his exemplary civic leadership.

By Representative Quimby and others,

By Senators Benning, Doyle, Kitchel and Starr,

H.C.R. 260.

House concurrent resolution congratulating John McClaughry on his half century of public service as Kirby Town Moderator.

By Representative Dickinson and others,

By Senators Degree and Zuckerman,

H.C.R. 261.

House concurrent resolution designating February as Career and Technical Education Month in Vermont.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, March 8, 2016, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 32.

TUESDAY, MARCH 8, 2016

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Message from the House No. 27

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 237. House concurrent resolution honoring Cambridge Town Clerk, Treasurer, and Collector of Delinquent Taxes Jane Porter for her outstanding municipal public service.

H.C.R. 248. House concurrent resolution honoring Wendell Coleman for his local and State public service on behalf of the citizens of Londonderry.

H.C.R. 249. House concurrent resolution honoring Ralph Coleman of Jamaica for his dedicated civic leadership in the town of Jamaica and for the Leland & Gray Union Middle and High School.

H.C.R. 250. House concurrent resolution honoring Chief George Lang on his outstanding 42 years of devoted service at the Champion 5 South Londonderry Fire Department.

H.C.R. 251. House concurrent resolution honoring Marvin Locke for his exemplary civic service in Lamoille County.

H.C.R. 252. House concurrent resolution honoring Elise McKenna for her outstanding work on the Blueprint for Health in the Lamoille County Health Service Area.

H.C.R. 253. House concurrent resolution in memory of Donald G. Milne of Washington, the respected former Clerk of the House.

H.C.R. 255. House concurrent resolution honoring AJ Piper for his conscientious leadership and community-centered service on the Weybridge Selectboard.

H.C.R. 256. House concurrent resolution honoring Steve Huestis for his outstanding civic service in the town of Bridport.

H.C.R. 257. House concurrent resolution honoring Warren Whitcomb, in recognition of his exemplary municipal civic leadership in the town of New Haven.

H.C.R. 258. House concurrent resolution honoring Earl Bessette for his community engagement and civic service in the town of New Haven.

H.C.R. 259. House concurrent resolution honoring Rockingham Selectboard Chair Thomas H. MacPhee on his exemplary civic leadership.

H.C.R. 260. House concurrent resolution congratulating John McClaughry on his half century of public service as Kirby Town Moderator.

H.C.R. 261. House concurrent resolution designating February as Career and Technical Education Month in Vermont.

In the adoption of which the concurrence of the Senate is requested.

The House has considered concurrent resolutions originating in the Senate of the following titles:

S.C.R. 37. Senate concurrent resolution congratulating innkeepers Brian and Leslie Mulcahy on their outstanding record of accomplishment at the Rabbit Hill Inn in Lower Waterford.

S.C.R. 38. Senate concurrent resolution honoring Sharyn Brush for her outstanding public service in the town of Bennington.

And has adopted the same in concurrence.

Message from the House No. 28

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The Governor has informed the House that on the February 24, 2016, he approved and signed bills originating in the House of the following titles:

H. 505. An act relating to approval of amendments to the charter of the Village of North Bennington.

H. 524. An act relating to seeking a waiver to permit businesses to continue to purchase Exchange plans directly from insurers.

The Governor has informed the House that on the February 10, 2016, he approved and signed a bill originating in the House of the following title:

H. 363. An act relating to the Petroleum Cleanup Fund.

Committee Relieved of Further Consideration; Bill Committed

H. 297.

On motion of Senator Bray, the Committee on Natural Resources and Energy was relieved of further consideration of House bill entitled:

An act relating to the sale of ivory or rhinoceros horn,

and the bill was committed to the Committee on Economic Development, Housing and General Affairs.

Bill Referred to Committee on Appropriations

S. 180.

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to increasing General Fund appropriations to the Vermont State Colleges.

Bill Referred to Committee on Finance

S. 225.

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

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

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 44.

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senators Baruth and Benning,

J.R.S. 44. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 11, 2016, it be to meet again no later than Tuesday, March 15, 2016.

Bill Passed

S. 190.

Senate bill of the following title was read the third time and passed:

An act relating to maintaining prescription drugs outside the original prescription container.

Consideration Postponed

Senate bill entitled:

S. 123.

An act relating to standardized procedures for permits and approvals issued by the Department of Environmental Conservation.

Was taken up.

Thereupon, without objection consideration of the bill was postponed until the next legislative day.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 43.

Joint Senate resolution entitled:

Joint resolution providing for a Joint Assembly to vote on the retention of four Superior Judges.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 9, 2016.

WEDNESDAY, MARCH 9, 2016

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 29

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 278. An act relating to selection of the Adjutant and Inspector General.

H. 749. An act relating to filing a request for relief from abuse.

In the passage of which the concurrence of the Senate is requested.

Message from the Governor
Appointments Referred

A message was received from the Governor, by Susan Allen, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Flanagan, Edward of Montpelier - Member of the Vermont State Lottery Commission, - from March 1, 2016, to February 28, 2019.

To the Committee on Economic Development, Housing and General Affairs.

Kimel, David of St. Albans - Member of the Vermont Municipal Bond Bank, - from March 1, 2016, to January 31, 2018.

To the Committee on Finance.

Winters, Deborah of Swanton - Member of the Vermont Municipal Bond Bank, - from March 1, 2016, to January 31, 2018.

To the Committee on Finance.

Ozarowski, Peter of South Burlington - Member of the Parole Board, - from March 1, 2016, to February 28, 2019.

To the Committee on Institutions.

Roberto, Lynn of Springfield - Alternate Member of the Parole Board, - from March 1, 2016, to February 28, 2019.

To the Committee on Institutions.

Kittell, Vanessa of East Fairfield - Member of the Transportation Board, - from March 1, 2016, to February 28, 2019.

To the Committee on Transportation.

Richards, Alyson of Montpelier - Member of the Vermont State Colleges Board of Trustees, - from March 1, 2016, to February 28, 2019.

To the Committee on Education.

Berry, Patrick of Middlebury - Member of the Fish and Wildlife Board, - from March 1, 2016, to February 28, 2022.

To the Committee on Natural Resources and Energy.

Biebel, Timothy of Windsor - Member of the Fish and Wildlife Board, - from March 1, 2016, to February 28, 2022.

To the Committee on Natural Resources and Energy.

Fielding, David of Manchester Center - Member of the Fish and Wildlife Board, - from March 1, 2016, to February 28, 2022.

To the Committee on Natural Resources and Energy.

Bill Referred to Committee on Appropriations

S. 169.

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to the Rozo McLaughlin Farm-to-School Program.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 278.

An act relating to selection of the Adjutant and Inspector General.

To the Committee on Government Operations.

H. 749.

An act relating to filing a request for relief from abuse.

To the Committee on Judiciary.

Consideration Resumed; Bill Amended; Bill Passed

S. 154.

Consideration was resumed on Senate bill entitled:

An act relating to enhanced penalties for assaulting an employee of the Family Services Division of the Department for Children and Families and to criminal threatening.

Thereupon, pending third reading of the bill, Senator Benning moved to amend in Sec. 2, 13 V.S.A. § 1702, by inserting a subsection (f) as follows:

(f) It shall be an affirmative defense to a charge under this section that the person did not have the ability to carry out the threat. The burden shall be on the defendant to prove the affirmative defense by a preponderance of the evidence.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Baruth moved to amend the bill in Sec. 2, 13 V.S.A. § 1702, by striking out subsection (a) in its entirety and inserting a new subsection (a) as follows:

(a) A person shall not:

(1) intentionally threaten another person by words or conduct that are repeated or serious in nature; and

(2) as a result of the threat or threats, intentionally place the other person in reasonable apprehension of death or serious bodily injury.

Which was disagreed to.

Thereupon, pending third reading of the bill, Senator McCormack moved to amend the bill as follows:

First: In Sec. 2, 13 V.S.A. § 1702, by striking out subsection (c) in its entirety and inserting in lieu thereof a new subsection (c) to read as follows:

(c)(1) A person who violates subsection (a) of this section with the intent to prevent another person from reporting to the Department for Children and Families the suspected abuse or neglect of a child shall be imprisoned not more than two years or fined not more than $1,000.00, or both.

(2) A person who violates subsection (a) of this section with the intent to influence the decision, opinion, recommendation, vote, or other exercise of discretion of a public servant shall be imprisoned not more than two years or fined not more than $1,000.00, or both.

Second: In Sec. 2, 13 V.S.A. § 1702, in subsection (d), by inserting in lieu thereof a new subdivision (3) to read as follows:

(3) "Public servant" shall mean the holder of any public office and any employee of the State.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator McCormack?, Senator McCormack requested and was granted leave with withdraw the recommendation of amendment.

Thereupon, pending third reading of the bill, Senator Sears moved to amend the bill in Sec. 2, 13 V.S.A. § 1702, subsection (a), by striking out the word "intentionally" and inserting in lieu thereof the word knowingly

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 26, Nays 2

Senator Mullin having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ayer, Balint, Benning, Bray, Campbell, Campion, Collamore, Cummings, Degree, Flory, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Ashe, Baruth.

Those Senators absent and not voting were: Doyle, McAllister (suspended).

*Senator Snelling explained her vote as follows:

"Thank you to the Judiciary Committee and the Child Protection Commission for their work on this legislation.

"I am still concerned that individuals with mental illness may be considered under this law and I hope we can work to avoid any unintended consequences."

Consideration Resumed; Bill Amended; Third Reading Ordered

S. 123.

Consideration was resumed on Senate bill entitled:

An act relating to standardized procedures for permits and approvals issued by the Department of Environmental Conservation.

Senator Snelling, for the Committee on Natural Resources and Energy, reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Environmental Conservation; Standard Procedures * * *

Sec. 1. 10 V.S.A. chapter 170 is added to read:

CHAPTER 170. DEPARTMENT OF ENVIRONMENTAL CONSERVATION; STANDARD PROCEDURES;

Subchapter 1. General Provisions

§ 7701. PURPOSE

The purpose of this chapter is to establish standard procedures for public notice, public meetings, and decisions relating to applications for permits issued by the Department of Environmental Conservation.

§ 7702. DEFINITIONS

As used in this chapter:

(1) "Adjoining property owner" means a person who owns land in fee simple, if that land:

(A) shares a property boundary with a tract of land where proposed or actual activity regulated by the Department is located; or

(B) is adjacent to a tract of land where such activity is located and the two properties are separated only by a river, stream, or public highway.

(2) "Administrative amendment" means an amendment to an individual permit, general permit, or notice of intent under a general permit that corrects typographical errors, changes the name or mailing address of a permittee, or makes other similar changes to a permit that do not require technical review of the permitted activity or the imposition of new conditions or requirements.

(3) "Administrative record" means the application and any supporting data furnished by the applicant; all information submitted by the applicant during the course of reviewing the application; the draft permit or notice of intent to deny the application; the fact sheet and all documents cited in the fact sheet, if applicable; all comments received during the public comment period; the recording or transcript of any public meeting or meetings held; any written material submitted at a public meeting; the response to comments; the final permit; any document used as a basis for the final decision; and any other documents contained in the permit file.

(4) "Administratively complete application" means an application for a permit for which all initially required documentation has been submitted, and any required permit fee, and the information submitted initially addresses all application requirements but has not yet been subjected to a complete technical review.

(5) "Agency" means the Agency of Natural Resources.

(6) "Clean Air Act" means the federal statutes on air pollution prevention and control, 42 U.S.C. § 7401 et seq.

(7) "Clean Water Act" means the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.

(8) "Commissioner" means the Commissioner of Environmental Conservation or the Commissioner's designee.

(9) "Department" means the Department of Environmental Conservation.

(10) "Document" means any written or recorded information, regardless of physical form or characteristics, which the Department produces or acquires in the course of reviewing an application for a permit.

(11) "Environmental notice bulletin" or "bulletin" means the website and e-mail notification system required by 3 V.S.A. § 2826.

(12) "Fact sheet" means a document that briefly sets forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing a draft decision.

(13) "General permit" means a permit that applies to a class or category of discharges, emissions, disposal, facilities, or activities within a common geographic area, including the entire State or a region of the State.

(14) "Individual permit" means a permit that authorizes a specific discharge, emission, disposal, facility, or activity that contains terms and conditions that are specific to the discharge, emission, disposal, facility, or activity.

(15) "Major amendment" means an amendment to an individual permit or notice of intent under a general permit that necessitates technical review.

(16) "Minor amendment" means an amendment to an individual permit or notice of intent under a general permit that requires a change in a condition or requirement, does not necessitate technical review, and is not an administrative amendment.

(17) "Notice of intent under a general permit" means an authorization issued by the Secretary to undertake an action authorized by a general permit.

(18) "Permit" includes any permit, certification, license, registration, determination, or similar form of permission required from the Department by law.

(19) "Person" shall have the same meaning as under section 8502 of this title.

(20) "Person to whom notice is federally required" means a person to whom notice of an application or draft decision must be given under federal regulations adopted pursuant to the Clean Air Act or Clean Water Act.

(21) "Public meeting" means a meeting that is open to the public and recorded or transcribed, at which the Department shall provide basic information about the draft permit decision, an opportunity for questions to the applicant and the Department, and an opportunity for members of the public to submit oral and written comments.

(22) "Secretary" means the Secretary of Natural Resources or designee.

(23) "Technical review" means the application of scientific, engineering, or other professional expertise to the facts to determine whether activity for which a permit is requested meets the standards for issuing the permit under statute and rule.

§ 7703. RULES; ADDITIONAL NOTICE OR PROCEDURES

(a) Rules.

(1) Implementing rules. The Secretary may adopt rules to implement this chapter.

(2) Complex projects; preapplication process. The Secretary shall adopt rules to determine when a project requiring a permit is large and complex. These rules shall provide that an applicant proposing such a project, prior to filing an application for a permit, shall initiate a project scoping process pursuant to 3 V.S.A. § 2828 or shall hold an informational meeting that is open to the public. The rules shall ensure that:

(A) Written notice of an informational meeting under this section is sent to the owner of the land where the project is located if the applicant is not the owner; the municipality in which the project is located; the municipal and regional planning commissions for any municipality in which the project is located; if the project site is located on a boundary, any Vermont municipality adjacent to that boundary and the municipal and regional planning commissions for that municipality; and each adjoining property owner.

(B) The notice to adjoining property owners informs them of how they can continue to receive notices and information concerning the project as it is reviewed by the Secretary.

(C) The applicant furnishes by affidavit to the Secretary the names of those furnished notice and certifies compliance with the notice requirements of this subsection.

(D) The applicant and the Secretary or designee shall attend the meeting. The applicant shall respond to questions from other attendees.

(b) Additional notice.

(1) The Secretary may require, by rule or in an individual case, measures in addition to those directed by this chapter using any method reasonably calculated to give direct notice to persons potentially affected by a decision on the application.

(2) In an individual case, the Secretary may determine to apply the procedures of section 7713 (Type 2) of this chapter to the issuance of a permit otherwise subject to the procedures of section 7715 (Type 4) or section 7716 (Type 5) of this chapter.

§ 7704. ADMINISTRATIVE RECORD

(a) The Secretary shall create an administrative record for each application for a permit and shall make the administrative record available to the public.

(b) The Secretary shall base a draft or final decision on each application for a permit on the administrative record.

(c) With respect to permits issued under the Clean Air Act and Clean Water Act, the Secretary shall comply with any requirements under those acts concerning the maintenance and availability of the administrative record.

Subchapter 2. Standard Procedures

§ 7711. PERMIT PROCEDURES; STANDARD PROVISIONS

(a) Notice through the environmental notice bulletin. When this chapter requires notice through the environmental notice bulletin:

(1) The bulletin shall generate and send an e-mail to notify:

(A) each person requiring notice under section 7712 of this chapter;

(B) the applicant;

(C) each person on an interested persons list;

(D) each municipality in which the activity to be permitted is located, except for notice of a draft or final general permit; and

(E) each other person to whom this chapter directs that a particular notice be provided through the bulletin.

(2) At a minimum, each notice generated by the bulletin shall contain:

(A) the name and contact information for the person at the Agency processing the permit;

(B) the name and address of the permit applicant, if applicable;

(C) the name and address of the facility or activity to be permitted, if applicable;

(D) a brief description of the activity for which the permit would be issued;

(E) the length of the period for submitting written comments and the process for submitting those comments, if applicable, and notice of the requirement to submit comments during that period in order to seek administrative appeal under this chapter;

(F) the process for requesting a public meeting, if applicable;

(G) when a public meeting has been scheduled, the time, date, and location of the hearing and a brief description of the nature and purpose of the hearing;

(H) when issued, the draft permit or notice of intent to deny a permit, and the period and process for submitting written comments on that draft permit or notice;

(I) when issued, the final decision issuing or denying a permit, and the process for appealing the decision; and

(J) any other information that this chapter directs be included in a particular notice to be generated by the bulletin.

(3) The environmental notice bulletin shall provide notice by mail as required by 3 V.S.A. § 2826.

(b) Notice to adjoining property owners. When this chapter requires notice of an application to adjoining property owners, the applicant shall provide notice of the application by U.S. mail to all adjoining property owners, on a form developed by the Secretary, at the time the application is submitted to the Secretary. The form shall state how the property owners can continue to receive notices and information concerning the project as it is reviewed by the Secretary. The applicant shall provide a signed certification to the Secretary that all adjoining property owners have been notified of the application. However, if the applicant has provided written notice to adjoining property owners as part of the preapplication engagement process for complex projects under rules adopted in accordance with subsection 7703(a) of this title, then instead of the written notice required of the applicant by this subsection, the Department shall provide notice of the application through the environmental notice bulletin to those adjoining property owners who have requested notice.

(c) Comment period length. When this chapter requires the Secretary to provide a public comment period, the length of the period shall be at least 30 days, unless this chapter applies a different period for submitting comments on the particular type of permit.

(d) Period to request a public meeting. When this chapter allows a person to request a public meeting on a draft decision, the person shall submit the request within 14 days of the date on which notice of the draft decision is posted to the environmental notice bulletin, unless this chapter specifies a different period for requesting a hearing on the particular type of permit.

(e) Public meeting; notice; additional comment period. When the Secretary holds a public meeting under this chapter:

(1) The Secretary shall:

(A) provide at least 14 days' prior notice of the public meeting through the environmental notice bulletin, unless this chapter specifies a different notice period for a public meeting on the particular type of permit;

(B) include in the notice, in addition to the information required by subsection (a) of this section, the date the Secretary gave notice of an administrative complete application, if applicable; and

(C) hold the period for written comments open for at least five days after the meeting.

(2) The applicant or applicant's representative and the Secretary or designee shall attend the meeting. The applicant shall cause to be present those professionals retained in the preparation of the application. The applicant and the Secretary each shall have a duty, at the public meeting, to answer questions to the best of his or her ability.

(f) Draft decisions. When this chapter requires the Secretary to post a draft decision or draft general permit to the environmental notice bulletin, the Secretary shall post to the bulletin the draft decision or draft general permit and all documents on which the Secretary relied in issuing the draft.

(g) Response to comments. When this chapter requires the Secretary to provide a response to comments, the Secretary shall provide a response to each comment received during the comment period and the basis for the response. The Secretary also shall specify each provision of the draft decision that has been changed in the final decision and the reasons for each change. The Secretary shall post the response to comments to the environmental notice bulletin and send it to all commenters.

(h) Final decisions; content; notice.

(1) The Secretary's final decision on an application for a permit or on the issuance of a general permit shall include a concise statement of the facts and analysis supporting the decision that is sufficient to apprise the reader of the decision's factual and legal basis. The final decision also shall provide notice that it may be appealed and state the period for filing an appeal and how and where to file an appeal.

(2) When this chapter requires that the Secretary to post a final decision to the environmental notice bulletin, the Secretary also shall send a copy of the final decision to all commenters.

§ 7712. TYPE 1 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when adopting general permits and considering applications for individual permits under the Clean Air Act and Clean Water Act.

(2) This section governs each application for a permit to be issued by the Secretary pursuant to the requirements of the Clean Air Act and Clean Water Act and to each general permit to be issued under one of those acts. However, the subsection does not apply to a notice of intent under a general permit. The procedures under this section shall be known as Type 1 Procedures.

(b) Notice of application.

(1) The applicant shall provide notice to adjoining property owners.

(2) At least 15 days prior to posting a draft decision, the Secretary shall provide notice of an administratively complete application through the environmental notice bulletin. The environmental notice bulletin shall send notice of such an application to each person to whom notice is federally required.

(3) This subsection (b) shall not apply to a general permit issued under this section.

(c) Notice of draft decision or draft general permit. The Secretary shall provide notice of a draft decision or draft general permit through the environmental notice bulletin and shall post the draft decision or permit to the bulletin. In addition to the requirements of section 7711 of this chapter:

(1) The Secretary shall post a fact sheet to the bulletin.

(2) The environmental notice bulletin shall send notice of the draft to each person to whom notice is federally required.

(3) The Secretary shall provide newspaper notice of the draft decision as required by this subdivision (3).

(A) If the draft decision pertains to an application for an individual permit, the Secretary shall provide notice in a daily or weekly newspaper in the area of the proposed project if the project is classified as major pursuant to the Clean Water Act or chapter 47 of this title or if required by federal statute or regulation.

(B) If the draft decision is a draft general permit, the Secretary shall provide notice in daily or weekly newspapers in each region of the State to which the draft general permit will apply.

(C) In addition to the requirements of this chapter and 3 V.S.A. § 2826, the notice from the environmental notice bulletin and the newspaper notice shall include all information required pursuant to applicable federal statute and regulation.

(d) Comment period. The Secretary shall provide a public comment period.

(e) Public meeting. On or before the end of the comment period, any person may request a public meeting on the draft decision or draft general permit issued under this section. The Secretary shall hold a public meeting at his or her discretion or whenever any person files a written request for a meeting. The Secretary shall provide at least 30 days' notice of the public meeting through the environmental notice bulletin. If the notice of the public meeting is not issued at the same time as the draft decision or draft general permit, the Secretary also shall provide notice of the public meeting in the same manner as required for the draft decision or permit under subdivision (c) of this section.

(f) Notice of final decision or final general permit. The Secretary shall provide notice of the final decision or final general permit through the environmental notice bulletin and shall post the final decision or permit to the bulletin. When the Secretary issues the final decision or final general permit, the Secretary shall provide a response to comments.

(g) Compliance with Clean Air and Water Acts. With respect to a issuance of a permit under the Clean Air Act or Clean Water Act, if a requirement under those acts directs the Secretary to provide the public with greater notice, opportunity to participate, or access to information than the corresponding requirement of this chapter, the Secretary shall comply with the federal requirement.

§ 7713. TYPE 2 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when considering applications for individual permits, except for individual permits specifically listed in other sections of this subchapter, and when considering other permits listed in this section.

(2) The procedures under this section shall be known as Type 2 Procedures. This section governs an application for each of the following:

(A) an individual permit issued pursuant to the Secretary's authority under this title and 29 V.S.A. chapter 11, except for permits governed by sections 7712 and 7714–7716 of this chapter;

(B) a wetland determination under section 914 of this title;

(C) a public water system source permit under section 1675 of this title;

(D) a provisional certification issued under section 6605d of this title; and

(E) a corrective action plan under section 6648 of this title.

(b) Notice of application.

(1) The applicant shall provide notice of the application to adjoining property owners. In addition, for public water system source protection areas, the applicant shall provide notice to all property owners located in:

(A) zones 1 and 2 of the source protection area for a public community water system source; and

(B) the source protection area for a public nontransient noncommunity water system source.

(2) The Secretary shall provide notice of an administratively complete application through the environmental notice bulletin.

(c) Notice of draft decision; comment period. The Secretary shall provide notice of a draft decision through the environmental notice bulletin and shall post the draft decision to the bulletin. The Secretary shall provide a public comment period.

(d) Public meeting. Any person may request a public meeting on a draft decision issued under this section or the Secretary may hold a meeting at his or her discretion.

(e) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the final decision to the bulletin. When the Secretary issues the final decision, the Secretary shall provide a response to comments.

§ 7714. TYPE 3 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when adopting general permits, except for general permits governed by section 7712 of this chapter, and when considering other permits listed in this section.

(2) The procedures under this section shall be known as Type 3 Procedures. This section governs each of the following:

(A) Each general permit issued pursuant to the Secretary's authority under this title other than a general permit subject to section 7712 of this chapter. However, this section does not apply to a notice of intent under a general permit.

(B) Issuance of a dam safety order under chapter 43 of this title, except for an unsafe dam order under section 1095 of this title.

(C) An application or request for approval of:

(i) an individual shoreland permit under chapter 49A of this title;

(ii) an aquatic nuisance control permit under chapter 50 of this title;

(iii) a change in treatment for a public water supply under chapter 56 of this title;

(iv) a collection plan for mercury-containing lamps under section 7156 of this title;

(v) an individual plan for the collection and recycling of electronic waste under section 7554 of this title; and

(vi) a primary battery stewardship plan under section 7586 of this title.

(b) Notice of application. The Secretary shall provide notice of an administratively complete application through the environmental notice bulletin.

(c) Notice of draft decision; comment period. The Secretary shall provide notice of the draft decision through the environmental notice bulletin and shall post the draft decision to the bulletin. The Secretary shall provide a public comment period.

(d) Public meeting. Any person may request a public meeting on a draft decision issued under this section or the Secretary may hold a meeting at his or her discretion.

(e) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the final decision to the bulletin. The Secretary shall provide a response to comments.

§ 7715. TYPE 4 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when considering applications for notice of intent under a general permit and other permits listed in this section.

(2) The procedures under this section shall be known as Type 4 Procedures. This section applies to each of the following:

(A) a notice of intent under a general permit issued pursuant to the Secretary's authority under this title; and

(B) an application for each of following permits:

(i) construction or operation of an air contaminant source less than 10 tons per year under chapter 23 of this title;

(ii) construction or expansion of a public water supply under chapter 56 of this title, except that a change in treatment for a public water supply shall proceed in accordance with section 7714 of this chapter;

(iii) a category 1 underground storage tank under chapter 59 of this title;

(iv) a categorical solid waste certification under chapter 159 of this title; and

(v) a medium scale composting certification under chapter 159 of this title.

(b) Notice of application. The Secretary shall provide notice of an administratively complete application through the environmental notice bulletin.

(c) Notice of draft decision; comment period. The Secretary shall provide notice of the draft decision through the environmental notice bulletin and shall post the draft decision to the bulletin. The Secretary shall provide a public comment period of at least 10 days on the draft decision.

(d) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the decision to the bulletin. The Secretary shall provide a response to comments.

§ 7716. TYPE 5 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when issuing emergency permits and other permits listed in this section.

(2) The procedures under this section shall be known as Type 5 Procedures. This section shall govern each of the following:

(A) issuance of temporary emergency permits under section 912 of this title;

(B) applications for public water system operational permits under chapter 56 of this title;

(C) issuance of authorizations, under a stream alteration general permit issued under chapter 41 of this title, for reporting without an application, for an emergency, and for activities to prevent risks to life or of severe damage to improved property posed by the next annual flood;

(D) issuance of emergency permits issued under section 1268 of this title;

(E) issuance of emergency sludge and septage disposal approvals under section 6605 of this title; and

(F) shoreland registrations authorized under chapter 49A of this title.

(b) Notice of final decision. The Secretary shall provide notice of the final decision through the environmental notice bulletin and shall post the decision to the bulletin.

§ 7717. AMENDMENTS; RENEWALS

(a) A major amendment shall be subject to the same procedures applicable to the original permit decision under this chapter.

(b) A minor amendment shall be subject to the Type 4 Procedures, except that the Secretary need not provide notice of the administratively complete application.

(c) An administrative amendment shall not be subject to the procedural requirements of this chapter.

(d) A person may renew a permit under the same procedures applicable to the original permit decision under this chapter.

(e) With respect to amending a permit issued under the Clean Air Act or Clean Water Act, if a requirement under those acts directs the Secretary to provide the public with greater notice, opportunity to participate, or access to information than the corresponding requirement of this chapter, the Secretary shall comply with the federal requirement.

§ 7718. EXEMPTIONS

This subchapter shall not govern an application or petition for:

(1) an unsafe dam order under section 1095 of this title;

(2) a potable water supply and wastewater permit under section 1973(j) of this title;

(3) a hazardous waste facility certification under section 6606 of this title; and

(4) a certificate of need under section 6606a of this title.

Sec. 2. RULES; EFFECT ON PROCEDURAL REQUIREMENTS

Sec. 1 of this act shall take precedence over any inconsistent requirements for notice and processing of applications contained in rules adopted by the Department of Environmental Conservation other than rules pertaining to

applications that are exempt under Sec. 1, 10 V.S.A. § 7718. On or before July 1, 2019, the Secretary of Natural Resources shall commence and complete amendments to conform these rules to Sec. 1.

* * * Environmental Notice Bulletin * * *

Sec. 3. 3 V.S.A. § 2826 is amended to read:

§ 2826. ENVIRONMENTAL NOTICE BULLETIN; PERMIT HANDBOOK

(a) The Secretary shall establish ~~procedures for the publication of~~ an environmental notice bulletin, in order to provide for the timely public notification of permit applications, notices, comment periods, hearings, and permitting decisions. ~~The Secretary shall begin publication of the bulletin by no later than July 1, 1995 on the Agency's website. At a minimum, the bulletin shall contain the following information:~~ The bulletin shall consist of a website and an e-mail notification system. The Secretary shall ensure that the website for the bulletin is readily accessible from the Agency's main web page.

(1) ~~notice of administratively complete permit applications submitted to the Department of Environmental Conservation;~~ When 10 V.S.A. chapter 170 requires the posting of information to the bulletin, the Secretary shall post the information to the bulletin's website.

(2) ~~notice of the comment period on the application and draft permit, if any, for those applications which were noticed;~~ When 10 V.S.A. chapter 170 requires notice to persons through the environmental notice bulletin, the bulletin shall generate an e-mail notification to those persons containing the information required by that chapter.

(3) ~~notice of the issuance of a draft permit, if required by law, for those applications that were noticed;~~ The Secretary shall provide members of the public the ability to register, through the bulletin, for a list of interested persons to receive e-mail notification of permit activity based on permit type, municipality, proximity to a specified address, or a combination of these characteristics.

(4) ~~information on how to request a public hearing or meeting;~~ If an individual does not have an e-mail address, the individual may request to receive notifications through U.S. mail. On receipt of such a request, the Secretary shall mail to the individual the same information that the individual would have otherwise received through an e-mail generated by the bulletin.

~~(5) notice of the name of the staff person to contact for information regarding public hearings or meetings with respect to a particular application.~~

~~(6) notice of the issuance or denial of a permit for those applications that were noticed.~~

(b) ~~By January 1, 1995, the~~ The Secretary shall publish a permit handbook which lists all of the permits required for the programs administered by the Department of Environmental Conservation. The handbook shall include examples of activities that require certain permits, an explanation in lay terms of each of the permitting programs involved, and the names, addresses, and telephone numbers of the person or persons to contact for further information for each of the permitting programs. The Secretary shall update the handbook ~~shall be updated,~~ periodically.

Sec. 4. REPORTS; RULEMAKING; BULLETIN; REVISION

(a) On or before September 15, 2016, the Secretary shall commence all rulemaking required by Sec. 1 of this act.

(b) On or before February 15, 2017, the Secretary shall report in writing to the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources on the Secretary's progress in adopting the rules required by Sec. 1 of this act and revising and reestablishing the environmental notice bulletin in accordance with Secs. 1 and 3 of this act.

(c) On or before July 1, 2017, the Secretary shall revise and reestablish the environmental notice bulletin to conform to the requirements of Secs. 1 and 3 of this act.

(d) On or before February 15, 2020, the Secretary of Natural Resources shall submit a written report to the House and Senate Committees on Natural Resources and Energy and the House Committee on Fish, Wildlife and Water Resources that:

(1) summarizes the Secretary's implementation of Secs. 1 through 3 of this act and details the steps taken to implement those sections;

(2) provides the Secretary's assessment of the effect of 10 V.S.A. chapter 170 on the amount of time taken by the Department of Environmental Conservation (DEC), during the preceding two calendar years, to review and issue decisions on applications and permits subject to that chapter and the data supporting that assessment;

(3) provides the Secretary's assessment of the effect of 10 V.S.A. chapter 170 on public participation, during the preceding two calendar years, in the review of applications and permits subject to that chapter and the data supporting that assessment;

(4) provides:

(A) the total and annual number of appeals, during 2018 and 2019, of DEC decisions subject to 10 V.S.A. chapter 170 and how each appeal was resolved; and

(B) a comparison with the total and annual number of appeals, during calendar years 2015 through 2017, from DEC programs that become subject to the procedures of 10 V.S.A. chapter 170 on January 1, 2018, and how each of those appeals was resolved;

(5) provides the Secretary's overall evaluation of the success of Secs. 1 and 3 of this act in standardizing DEC permit procedures, increasing public participation in DEC's permit process, and resolving issues related to the issuance of DEC permits without appeal;

(6) based on the track record of 10 V.S.A. chapter 170 to date of the report, states the Secretary's recommendation on whether there is justification to amend the process for appealing those acts and decisions of the Secretary subject to that chapter; and

(7) if the recommendation under subdivision (6) of this subsection is affirmative, provides the Secretary's recommended amendments to the process for appealing those acts and decisions of the Secretary subject to 10 V.S.A. chapter 170.

* * * Appeals from Agency of Natural Resources to the Environmental Division * * *

Sec. 5. 10 V.S.A. § 8504(d) is amended to read:

(d) Requirement ~~that aggrieved Act 250 parties~~ to participate before the District Commission or the Secretary.

(1) ~~No~~ An aggrieved person ~~may~~ shall not appeal an act or decision that was made by a District Commission unless the person was granted party status by the District Commission pursuant to subdivision 6085(c)(1)(E) of this title, participated in the proceedings before the District Commission, and retained party status at the end of the District Commission proceedings. In addition, the person may only appeal those issues under the criteria with respect to which the person was granted party status.

~~(2) Notwithstanding subdivision (d)(1) of this section,~~ However, notwithstanding these limitations, an aggrieved person may appeal an act or decision of the District Commission if the Environmental judge determines that:

(A) there was a procedural defect ~~which~~ that prevented the person from obtaining party status or participating in the proceeding;

(B) the decision being appealed is the grant or denial of party status; or

(C) some other condition exists which would result in manifest injustice if the person's right to appeal was disallowed.

(2) An aggrieved person shall not appeal an act or decision of the Secretary unless the person submitted to the Secretary a written comment during the comment period or an oral comment at the public meeting conducted by the Secretary. In addition, the person may only appeal issues related to the person's comment to the Secretary. However, notwithstanding these limitations, an aggrieved person may appeal an act or decision of the Secretary if the Environmental judge determines that:

(A) there was a procedural defect that prevented the person from commenting during the comment period or at the public meeting or otherwise participating in the proceeding;

(B) the Secretary did not conduct a comment period and did not hold a public meeting; or

(C) some other condition exists which would result in manifest injustice if the person's right to appeal was disallowed.

* * * Conforming Amendments * * *

Sec. 6. 10 V.S.A. § 556 is amended to read:

§ 556. PERMITS FOR THE CONSTRUCTION OR MODIFICATION OF AIR CONTAMINANT SOURCES

* * *

(b) The ~~secretary~~ Secretary may require an applicant to submit any additional information ~~which~~ that the ~~secretary~~ Secretary considers necessary to make the completeness determination required in subsection (a) of this section and shall not grant a permit until the information is furnished and evaluated. ~~For air contaminant sources that have allowable emissions of more than 10 tons per year of all contaminants, excluding greenhouse gases, upon making a determination to issue a draft permit, the secretary shall issue a notice that includes a brief description of the source and the address where a complete permit application and draft permit may be reviewed, shall provide a public comment period on all draft permits, and shall hold a public informational meeting, if requested. The public comment period on a draft permit for a source that has allowable emissions of more than 10 tons per year, excluding greenhouse gases, shall be 30 days if the source constitutes a major stationary source or major modification under the rules of the secretary and shall otherwise be 10 days. For air contaminant sources that have allowable emissions of less than 10 tons per year of all contaminants, the secretary may provide an opportunity for public comment or a public informational hearing,~~

~~or both, before ruling on a proposed permit. In determining whether to provide for comment or a meeting, the secretary shall consider the degree of toxicity of the air contaminant and the emission rate, the proximity of the source to residences, population centers and other sensitive human receptors, and emission dispersion characteristics at or near the source. The secretary shall fully consider all written and oral submissions concerning proposed permits prior to taking final action on those proposed permits.~~ When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 7. 10 V.S.A. § 556a is amended to read:

§ 556a. OPERATING PERMITS

* * *

(c) ~~For air contaminant sources that have allowable emissions of more than 10 tons per year of all contaminants, excluding greenhouse gases, upon making a determination to issue a draft permit, the secretary shall issue a notice that includes a brief description of the source and the address where a complete permit application and a draft permit may be reviewed, shall provide a public comment period on all draft permits, and shall hold a public informational meeting, if requested. The public comment period on a draft permit for a source that has allowable emissions of more than 10 tons per year, excluding greenhouse gases, shall be 30 days if the source is subject to subchapter V (permits) of 42 U.S.C. chapter 85 (air pollution prevention and control) and shall otherwise be 10 days. For air contaminant sources that have allowable emissions of less than ten tons per year of all contaminants, the secretary may provide an opportunity for public comment or a public informational hearing, or both, before ruling on a proposed permit. In determining whether to provide for comment or a meeting, the secretary shall consider the degree of toxicity of the air contaminant and the emission rate, the proximity of the source to residences, population centers and other sensitive human receptors, and emission dispersion characteristics at or near the source. The secretary shall fully consider all written and oral submissions concerning proposed permits prior to taking final action on those proposed permits.~~ When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

(e) A person may renew a permit issued under this section ~~may be renewed~~ upon application to the ~~secretary~~ Secretary for a fixed period of time, not to exceed five years.

~~(1) A permit being renewed shall be subject to the same procedural requirements, including those for public participation, that apply to initial permit issuance, except that a permit being renewed shall not be subject to the public notice and comment requirements of this chapter if all of the following apply:~~

~~(A) The secretary determines that no substantive changes have occurred at the air contaminant source that would affect emissions or require changes to the permit.~~

~~(B) The secretary determines no new statutory or regulatory requirements need to be added to the permit.~~

~~(C) The air contaminant source does not require a permit under subchapter V (permits) of 42 U.S.C. chapter 85 (air pollution prevention and control).~~

~~(2)~~ The ~~secretary~~ Secretary shall not issue a permit renewal unless the applicant first demonstrates that the emissions from the subject source meet all applicable emission control requirements or are subject to, and in compliance with, an appropriate schedule of compliance.

* * *

(h)~~(1)~~ The ~~secretary may issue~~ Secretary may adopt, as a rule under 3 V.S.A. chapter 25, a general operating ~~permits~~ permit covering numerous similar sources. ~~A general permit shall be adopted as an administrative rule under the provisions of 3 V.S.A. chapter 25. Each rule creating a general permit shall include provisions that require public notice of the fact that specified emitters have applied for general permits.~~

~~(2) Each rule creating a general permit shall provide a process by which interested persons can obtain detailed information about the nature and extent of the activity proposed to receive a general permit, and a process by which aggrieved persons can obtain an opportunity to be heard on a request that the general permit be issued only subject to specific conditions to limit or mitigate the effects of the emissions in question. Based on information presented at such a hearing, an applicant may be required to obtain a permit other than a general permit, or may obtain a general permit subject to specified conditions.~~

* * *

Sec. 8. 10 V.S.A. § 754 is amended to read:

§ 754. FLOOD HAZARD AREA RULES; USES EXEMPT FROM MUNICIPAL REGULATION

* * *

(b) Required rulemaking content. The rules shall:

(1) set forth the requirements necessary to ensure uses exempt from municipal regulation are regulated by the State in order to comply with the regulatory obligations set forth under the National Flood Insurance Program.

(2) be designed to ensure that the State and municipalities meet community eligibility requirements for the National Flood Insurance Program.

(3) ~~require that the Secretary provide notice to a municipality in which a use exempt from municipal regulation will occur of an application received under this section and a copy of the permit issued, unless a use is authorized to occur without notification of or reporting to the Secretary.~~ [Repealed.]

* * *

(f) Permit requirement. ~~Beginning March 1, 2015, no person~~ A person shall not commence or conduct a use exempt from municipal regulation in a flood hazard area or river corridor in a municipality that has adopted a flood hazard area bylaw or ordinance under 24 V.S.A. chapter 117 or commence construction of a State-owned and -operated institution or facility located within a flood hazard area or river corridor, without a permit issued under the rules required under subsection (a) of this section by the Secretary or by a State agency delegated permitting authority under subsection (g) of this section. When an application is filed under this section, the Secretary or delegated State agency shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 9. 10 V.S.A. § 914 is amended to read:

§ 914. WETLANDS DETERMINATIONS

* * *

(c) ~~The Secretary shall provide by certified mail written notice of a proposed determination to the owner of each parcel of land within or adjacent to the wetland or buffer zone in question; publish notice on the Agency website; and provide an electronic notice to persons who have requested to be on a list of interested persons. Such notice shall include the date of the Secretary's proposed determination and shall provide no fewer than 30 days from the date of the Secretary's proposed determination within which to file written comments or to request that the Secretary hold a public meeting on the proposed determination.~~ The provisions of chapter 170 of this title shall apply to issuance of determinations under this section.

(d) ~~The Secretary shall provide, in person, by mail, or by electronic notice, a written copy of a wetland determination issued under this section to the~~

~~owner of each affected parcel of land and to the requesting petitioner.~~ [Repealed.]

* * *

Sec. 10. 10 V.S.A. § 1022 is amended to read:

§ 1022. APPLICATION FOR ALTERATION

A person proposing to change, alter, or modify the course, current, or cross section of a watercourse shall apply in writing to the ~~secretary~~ Secretary for a permit to do so. The application shall describe the location and purpose of the proposed change and shall be accompanied by the maps and plans and other information the ~~secretary~~ Secretary shall direct. ~~A conformed copy shall be simultaneously filed with the town clerk of the town in which the proposed alteration is located, and mailed to each owner of property that abuts or is opposite the land where the alteration is to take place. The town clerk shall forthwith post the copy in the town office.~~ When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title and the requirements of this subchapter.

Sec. 11. 10 V.S.A. § 1023 is amended to read:

§ 1023. INVESTIGATION, PERMIT

* * *

(b) The reasons for the action taken under this section shall be set forth in writing to the applicant. ~~Notice of the action of the Secretary shall also be sent to the selectboard of the town in which the proposed change is located, and to each owner of property which abuts or is opposite the land where the alteration is to take place.~~

* * *

Sec. 12. 10 V.S.A. § 1083 is amended to read:

§ 1083. APPLICATION

(a) Any person who proposes to undertake an action subject to regulation pursuant to section 1082 of this title shall apply in writing to the ~~state~~ State agency having jurisdiction~~, and shall give notice thereof to the governing body of the municipality or municipalities in which the dam or any part of the dam is to be located~~. The application shall set forth:

* * *

Sec. 13. 10 V.S.A. § 1085 is amended to read:

§ 1085. NOTICE OF APPLICATION

Upon receipt of the application required by section 1082 of this title, the ~~state~~ State agency having jurisdiction shall give notice to the legislative body of each municipality in which the dam is allocated and to all persons interested.

(1) ~~For any project subject to its jurisdiction under this chapter, on the petition of 25 or more persons the department shall, or on its own motion it may, hold a public information meeting in a municipality in the vicinity of the proposed project to hear comments on whether the proposed project serves the public good and provides adequately for the public safety. Public notice shall be given by posting in the municipal offices of the towns in which the project will be completed and by publishing in a local newspaper at least 10 days before the meeting.~~ The Department shall proceed in accordance with chapter 170 of this title.

(2) For any project subject to its jurisdiction under this chapter, the public service board shall hold a hearing on the application. The purpose of the hearing shall be to determine whether the project serves the public good as defined in section 1086 of this title and provides adequately for the public safety. The hearing shall be held in a municipality in the vicinity of the proposed project and may be consolidated with other hearings, including hearings under 30 V.S.A. § 248 concerning the same project. Notice shall be given at least 10 days before the hearing to interested persons by posting in the municipal offices of the towns in which the project will be completed and by publishing in a local newspaper.

Sec. 14. 10 V.S.A. § 1100 is amended to read

§ 1100. FEDERAL COOPERATION

* * *

(4) Where cultivated agricultural lands in excess of one hundred acres are to be taken for the purposes of a flood control project, or the recreational development of the ~~state~~ State or the economy of the river basin involved may be affected thereby, the ~~department, of its own motion, may, and upon petition to it by interested parties, shall, appoint a time and place for hearing in the vicinity of the flood control project, hold a public information meeting after giving notice to interested parties as it directs~~ Department shall provide notice, an opportunity to submit comments, and an opportunity to request a public meeting in accordance with section 7713 (Type 2 Procedures) of this title. ~~Upon hearing, the department~~ The Department shall determine the effect the flood control project will have upon agricultural land uses or recreational

values in this ~~state~~ State, or upon the economy of the river basin involved, and report its findings and recommendations to the proper federal agency or authority having the flood control project in charge for its consideration and recognition. The Department shall post its findings and recommendations as a final decision in accordance with chapter 170 of this title.

Sec. 15. 10 V.S.A. § 1252 is amended to read:

§ 1252. CLASSIFICATION OF WATERS; MIXING ZONES

* * *

(d) Prior to the initial authorization of a new waste management zone, except those created pursuant to subsection (b) of this section, or prior to the expansion of the size of an existing zone created under this section, in order to accommodate an increased discharge, the Secretary shall:

(1) Prepare a draft permit which includes a description of the proposed waste management zone ~~prior to publishing the notice required by subdivision (2) of this subsection~~ and proceed in accordance with subsections 7713(c), (d), and (e) of this title.

(2) ~~Publish notice in both a local newspaper generally circulating in the area where the affected waters are located and a separate newspaper generally circulating throughout the State not less than 21 days prior to the public hearing required by this subsection. The notice shall describe the draft permit and proposed waste management zone and provide for the opportunity to file written comment for not less than seven days following the hearing.~~

~~(3) Forward copies of the notice, the draft permit and the description of the proposed waste management zone to any municipality and regional planning commission within the area where the affected waters are located not less than 21 days prior to the hearing. The notice, the draft permit and the description of the waste management zone shall also be provided to any person upon request.~~

~~(4) Hold a public hearing convenient to the waters affected.~~

~~(5)~~ Give due consideration to the cumulative impact of overlapping waste management zones.

~~(6)~~(3) Determine that the creation or expansion of such a waste management zone is in the public interest after giving due consideration to the factors specified in subdivisions 1253(e)(1) through (10) of this title.

~~(7)~~(4) Determine that the creation or expansion of such a zone will not:

* * *

~~(8)~~(5) Provide a written explanation with respect to subdivisions ~~(5)~~(2) through ~~(7)~~(4) of this subsection.

* * *

Sec. 16. 10 V.S.A. § 1263 is amended to read:

§ 1263. DISCHARGE PERMITS

* * *

(b) ~~Except for applications for permission to discharge under the terms of a previously issued general permit, the secretary shall provide for notice of each application to the public and any appropriate officials of another state and the federal government including the administrator of the United States Environmental Protection Agency, and shall provide an opportunity for written comments or a public hearing or both on the application before making a final ruling on the application. Prior to issuing a general permit, the secretary shall give notice as provided in this subsection and provide for written comments or a public hearing or both as provided in this subsection. For applications for permission to discharge under the terms of a previously issued general permit, the applicant shall provide notice, on a form provided by the secretary, to the municipal clerk of the municipality in which the discharge is located at the time the application is filed with the secretary, and the secretary shall provide an opportunity for written comment, regarding whether the application complies with the terms and conditions of the general permit, for ten days following receipt of the application.~~ When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title. The ~~secretary~~ Secretary may require any applicant to submit any additional information~~, which~~ that the ~~secretary~~ Secretary considers necessary and may refuse to grant a permit, or permission to discharge under the terms of a general permit, until the information is furnished and evaluated.

* * *

Sec. 17. 10 V.S.A. § 1265 is amended to read:

§ 1265. TEMPORARY POLLUTION PERMITS

* * *

(b) ~~The Secretary shall give notice of each application to the public and any appropriate officials of another state and the federal government including the administrator of the U.S. Environmental Protection Agency, and shall provide an opportunity for written comments or a public hearing, or, both on the application before ruling on the application.~~ When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title. The Secretary may require the applicant to submit any additional

information ~~which he or she~~ that the Secretary considers necessary, and may refuse to grant a permit until the information is furnished and evaluated.

* * *

Sec. 18. 10 V.S.A. § 1268 is amended to read:

§ 1268. EMERGENCY PERMITS

When a discharge permit holder finds that pollution abatement facilities require repairs, replacement or other corrective action in order for them to continue to meet standards specified in the permit, ~~he or she~~ the holder may apply in the manner specified by the ~~secretary~~ Secretary for an emergency pollution permit for a term sufficient to effect repairs, replacements or other corrective action. ~~The permit may be issued without prior public notice if the nature of the emergency will not provide sufficient time to give notice; provided that the secretary shall give public notice as soon as possible but in any event no later than five days after the effective date of the emergency pollution permit.~~ The Secretary shall proceed in accordance with chapter 170 of this title. No emergency pollution permit shall be issued unless the applicant certifies and the ~~secretary~~ Secretary finds that:

* * *

Sec. 19. 10 V.S.A. § 1418 is amended to read:

§ 1418. GROUNDWATER WITHDRAWAL PERMIT

* * *

(c)~~(1) At least 30 days before filing an application for a permit under this section, the applicant shall hold an informational hearing in the municipality in which the withdrawal is proposed in order to describe the proposed project and to hear comments regarding the proposed project. Public notice shall be given by posting in the municipal offices of the town in which the withdrawal is proposed and by publishing in a local newspaper at least 10 days before the meeting.~~

~~(2) On or before the date of filing with the secretary of natural resources an application for a permit under this section, an applicant for a withdrawal under this section shall notify:~~

~~(A) the clerk, legislative body, and any conservation commission in the municipality in which the proposed withdrawal is located;~~

~~(B) adjoining municipalities;~~

~~(C) the regional planning commission in the region where the proposed withdrawal is located;~~

~~(D) all landowners and mobile home park residents within the zone of influence of a groundwater withdrawal or within one quarter mile downstream from a withdrawal from a spring. Notice to the officers of a condominium association shall be deemed sufficient under this subdivision for notice to residents of a condominium; and~~

~~(E) any public water systems permitted by the agency of natural resources in the municipality where the proposed withdrawal is located.~~

~~(3) The applicant shall publish notice of the application in a newspaper of general circulation in the area in which the withdrawal is proposed and shall post a copy of the notice in the municipal clerk's office in the municipality in which the withdrawal is located.~~

~~(4) On its own motion or on receipt of a written request, the agency shall hold a public meeting in the municipality in which the withdrawal is proposed in order to describe the proposed project and to hear comments regarding the proposed project. Opportunity shall be given all participants at a public meeting to ask questions and comment on all issues involved. The agency shall prepare a responsiveness summary for each public meeting conducted. Public notice shall be given by posting in the municipal offices of the town in which the withdrawal is proposed and by publishing in a local newspaper at least 10 days before the meeting.~~

~~(5) No defect in the form or substance of any notice requirements in subdivision (1), (2), (3), or (4) of this subsection shall invalidate an application for a permit under this section provided that reasonable efforts are made to provide adequate posting and notice. An application for a permit under this section shall be invalid when a defective posting or notice was materially misleading in content. If an action is ruled to be invalid by the environmental division, the applicant may reapply and provide new posting and notice.~~ When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 20. 10 V.S.A. § 1443 is amended to read:

§ 1443. INDIVIDUAL PERMIT REQUIREMENTS FOR IMPERVIOUS SURFACE OR CLEARED AREA IN A PROTECTED SHORELAND AREA

* * *

(c) Permit process.

~~(1) A person applying for a permit shall do so on a form provided by the Secretary. The application shall be posted on the Agency's website.~~

~~(2) A person applying for a permit shall provide notice, on a form provided by the Secretary, to the municipal clerk of the municipality in which the construction of impervious surface or creation of cleared area is located at the time the application is filed with the Secretary.~~

~~(3) The Secretary shall provide an opportunity for written comment regarding whether an application complies with the requirements of this chapter or any rule adopted by the Secretary, for 30 days following receipt of the application.~~ When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 21. 10 V.S.A. § 1455 is amended to read:

§ 1455. AQUATIC NUISANCE CONTROL PERMIT

* * *

(h) ~~The Secretary shall adopt procedures under 3 V.S.A. chapter 25 which will provide an opportunity for public review and comment on permit applications. The procedures shall classify permit applications by degree of environmental risk involved and establish appropriate opportunities for public notice and comment for each class.~~ When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 22. 10 V.S.A. § 1456 is amended to read:

§ 1456. AQUATIC SPECIES RAPID RESPONSE GENERAL PERMITS

* * *

(c) ~~The secretary shall provide notice of the application to the municipal clerk of the municipality or municipalities in which the proposed control activity will be conducted at the time the request for authorization is filed with the secretary. The secretary shall provide an opportunity for written comment regarding whether the request complies with the terms and conditions of the aquatic species rapid response general permit for 10 days following receipt of the request for authorization.~~ When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 23. 10 V.S.A. § 1675 is amended to read:

§ 1675. PERMITS; CONDITIONS; DURATION; SUSPENSION OF REVOCATION

* * *

(c) ~~Notice and hearing.~~ Permit process; additional information.

~~(1) The Secretary shall give notice of each application for a new source for a community or nontransient, noncommunity water system to the public by publication in a newspaper of general circulation for the area containing the proposed system and by causing a notice to be posted in the clerk's office for the municipality containing the proposed system or source. The Secretary shall also give notice to appropriate State agencies. The applicant shall notify all adjoining landowners. The Secretary shall provide an opportunity for written comment or a public hearing, or both, on the application before ruling on the application.~~ When an application is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title. The Secretary may require the applicant to submit additional information which that the Secretary considers necessary in order to support the findings required in subsection (b) of this section, and may refuse to grant a permit until the information is furnished and evaluated. The Secretary may also consult with the Commissioner of Health, as necessary, in making decisions regarding health issues raised by the application. The Commissioner's response, if any, shall be part of the public record for the application.

~~(2) The Secretary shall give notice to the public of each application by a public community system for the addition of a new type of disinfectant by publication in a newspaper of general circulation for the area containing the proposed system and by causing a notice to be posted in the clerk's office for the municipality in which the system is located. The Secretary shall also give notice to appropriate State agencies. The Secretary shall provide an opportunity for written comment and shall, upon request, provide for a public hearing on the application before ruling on the application. The Secretary may require the applicant to submit additional information which the Secretary considers necessary in order to support the findings required in subsection (b) of this section, and may refuse to grant a permit until the information is furnished and evaluated. The Secretary may also consult with the Commissioner of Health, as necessary, in making decisions regarding health issues raised by the application. The Commissioner's response, if any, shall be part of the public record for the application.~~

* * *

Sec. 24. 10 V.S.A. § 1679 is amended to read:

§ 1679. PUBLIC WATER SOURCE PROTECTION AREAS

* * *

(d) ~~The Secretary shall give notice of each proposed public water source protection area to the public by publication in a newspaper of general~~

~~circulation for the area containing the proposed protection area and by causing a notice to be posted in the clerk's office for the municipality containing the proposed area. The Secretary shall also give notice to adjoining landowners and all appropriate officials of municipalities and State agencies. The Secretary shall provide an opportunity for written comment or a public hearing, or both, on the proposed area before designating the area. If the area is to be classified under chapter 48 of this title, the classification procedures shall satisfy the provisions of this subsection.~~ When the Secretary proposes to designate a public water source protection area under the rules adopted pursuant to subsection (a) of this section, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 25. 10 V.S.A. § 6605 is amended to read:

§ 6605. SOLID WASTE MANAGEMENT FACILITY CERTIFICATION

* * *

(f) ~~On or before the date of filing any certification or permit application for a facility, the applicant shall send notice and a copy of the application to the municipality where the facility is proposed to be or is located, and any adjacent Vermont municipality if the land is located on a boundary. The applicant shall furnish to the certifying or permitting authority the names of those furnished notice of application. Notwithstanding the provisions of subsection (c) of this section, the Secretary shall not issue a certification for a new facility or a recertification for an existing facility unless the town, city, or village in which the facility is located has been notified.~~ When an application for a certification is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

(g)(1) Notwithstanding any ~~other~~ contrary provision of this section, the Secretary may authorize the land disposal or management of sludge or septage by an applicant at any certified site or facility with available capacity, provided the Secretary finds:

* * *

(2) ~~The Secretary shall, following his or her issuance of approval of emergency sludge or septage disposal under this subsection, provide public notice of that action.~~ Issuance of an approval under this subsection shall comply with section 7716 of this title.

* * *

Sec. 26. 10 V.S.A. § 6605c is amended to read:

§ 6605c. SOLID WASTE CATEGORICAL CERTIFICATIONS

* * *

(d) ~~On or before the date of filing any certification application for a facility, the applicant shall send notice and a copy of the application to the municipality where the facility is proposed to be or is located and any adjacent Vermont municipality if the facility is located on a boundary. The applicant shall furnish the Secretary the names of those noticed of the application.~~ When an application for a certification is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 27. 10 V.S.A. § 6605d is amended to read:

§ 6605d. PROVISIONAL CERTIFICATION

* * *

(e) ~~The Secretary shall provide notice of the opportunity for public comment on an application for provisional certification, any proposed findings with respect to the application, and the time and place of a public informational meeting.~~

~~(1) The notice shall be published at least 14 days prior to the meeting and the public comment period shall end no sooner than 14 days after the meeting.~~

~~(2) In addition to the publication of notice in newspapers of general circulation in the area where the facility is located, the following persons shall be notified:~~

~~(A) The legislative body and the planning commission of the municipality in which the facility is located and the legislative bodies and planning commissions of all municipalities that will be served by the facility.~~

~~(B) All landowners whose property adjoins the facility.~~

~~(C) Any other state agency or subdivision of the state that has issued or may be required to issue a permit for the facility.~~

~~(D) The regional planning commission and any solid waste district serving the town, city or gore where the facility is located.~~

~~(E) Community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned.~~ When an application for a provisional certification is filed under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

(g) ~~A determination of the Secretary under this section may be reviewed under subchapter 5 of chapter 151 of this title.~~ [Repealed.]

(h) If the Secretary finds that emergency action is required for the disposal of solid waste in Vermont facilities, the Secretary may issue an emergency provisional certification. ~~Notice~~ Notwithstanding any contrary requirement of chapter 170 of this title, notice of a proposed emergency provisional certification shall be published at least seven calendar days prior to the meeting and the public comment period shall end no sooner than three calendar days after the meeting. An emergency provisional certification granted in accordance with this subsection shall be issued no more than once and shall terminate 60 days after issuance, unless the Secretary reissues the certification under this section as a provisional certification. Except as otherwise required by this subsection, an emergency provisional certification shall be subject to requirements that apply to provisional certification.

* * *

(j) ~~The Secretary may not issue a provisional certification:~~

~~(1) to the owner or operator of a solid waste management facility for which a permit has been denied under chapter 151 of this title prior to January 1, 1990, until the owner or operator is subsequently issued a permit under chapter 151 of this title; or~~

~~(2) to the owner or operator of a solid waste management facility that is subject to an appeal filed prior to January 1, 1990, so long as the appeal is still pending.~~ [Repealed.]

Sec. 28. 10 V.S.A. § 6648 is amended to read:

§ 6648. CORRECTIVE ACTION PLAN

* * *

(e) ~~Prior to approval of the corrective action plan, the Secretary shall provide notice to the public by publishing notice in a local newspaper of general circulation where the property is located and providing written notice to the clerk for the municipality in which the property is located. The clerk shall post the notice in a location conspicuous to the public. The Secretary shall review any public comment submitted prior to approval of the corrective action plan. The notice shall include all the following:~~

~~(1) a description of any proposed abatement, investigation, remediation, removal, and monitoring activities;~~

~~(2) a statement that the Secretary is considering approving a corrective action plan that provides for those activities;~~

~~(3) a request for public comment on the proposed activities to be submitted within 15 days after publication;~~

~~(4) the name, telephone number, and address of an agency official who is able to answer questions and accept comments on the matter.~~ Before approving a corrective action plan under this subchapter, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 29. 10 V.S.A. § 7156 is amended to read:

§ 7156. AGENCY RESPONSIBILITIES

* * *

(c) ~~Public input. The Agency shall establish a process under which a collection plan for a mercury-containing lamp is, prior to plan approval or amendment, available for public review and comment for 30 days. In establishing such a process, the Agency shall consult with interested persons, including manufacturers, environmental groups, wholesalers, retailers, municipalities, and solid waste districts.~~ Procedure. Before approving a collection plan under this chapter, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 30. 10 V.S.A. § 7554 is amended to read:

§ 7554. MANUFACTURER OPT-OUT INDIVIDUAL PLAN

* * *

(d) Public review ~~and consultation~~. ~~Prior to approval of a plan under this section, the Agency shall make the manufacturer's proposed plan available for public review and comment for at least 30 days.~~ Before approving an individual plan under this section, the Secretary shall proceed in accordance with chapter 170 of this title.

* * *

Sec. 31. 10 V.S.A. § 7586 is amended to read:

§ 7586. AGENCY RESPONSIBILITIES; APPROVAL OF PLANS

(a) Approval of plan. Within 90 days after receipt of a proposed primary battery stewardship plan, not including the time required for public comment under ~~subsection (c) of this section~~ chapter 170 of this title, the Secretary shall

determine whether the plan complies with the requirements of section 7584 of this title. If the Secretary determines that a plan complies with the requirements of section 7584 of this title, the Secretary shall notify the applicant of the plan approval in writing. If the Secretary rejects a primary battery stewardship plan, the Secretary shall notify the applicant in writing of the reasons for rejecting the plan. An applicant whose plan is rejected by the Secretary shall submit a revised plan to the Secretary within 45 days of receiving notice of rejection. A primary battery stewardship plan that is not approved or rejected by the Secretary within 90 days, not including the time required for public comment under ~~subsection (c) of this section~~ chapter 170 of this title, of submission by a producer shall be deemed approved.

* * *

(c) Public ~~notice~~ review. ~~The Secretary shall post all proposed primary battery stewardship plans and all proposed amendments to a primary battery stewardship plan on the Agency's website for 30 days from the date the application for a plan or a plan amendment is deemed complete by the Secretary, subject to the confidentiality provisions of section 7592 of this title.~~ When the Secretary receives a request to approve or amend a primary battery stewardship plan under this subchapter, the Secretary shall proceed in accordance with chapter 170 of this title.

(d) ~~Public input. The Secretary shall establish a process under which a primary battery stewardship plan, prior to plan approval or amendment, is available for public review and comment.~~ [Repealed.]

* * *

Sec. 32. 29 V.S.A. § 405 is amended to read:

§ 405. INVESTIGATION AND DETERMINATION OF PUBLIC GOOD

(a) ~~Written notice of each application shall be given by the department to abutting property owners, the selectmen of the town in which the proposed encroachment is located, and other persons as it considers appropriate. The notice shall provide a brief description of the proposed encroachment and the address where complete information about it may be obtained. Notice shall provide not less than 10 days for the filing of written comments by any interested persons. Upon receipt within the notice period of a request from a municipality, or 25 or more persons in interest, the department shall hold a public information meeting. Notice of the meeting shall be provided to anyone required to receive notice by this subsection, to all persons who have filed written comments within the notice period, and to other persons as the department considers appropriate.~~ When an application is filed under this chapter, the Department shall proceed in accordance with 10 V.S.A. chapter 170.

* * *

(c) ~~The department shall give written notice to the applicant, the municipality in which the encroachment is located, the abutting property owners and other persons considered appropriate, of the action taken in approving a permit or denying the application. Notice shall be given within five days of taking action. The notice shall explain the reasons for the action and shall include findings as to the effect of the encroachment on each element of the public good set forth in subsection (b) of this section.~~ The action of approving or denying an application shall not be effective until 10 days after the ~~department's~~ Department's notice of action.

* * * Act 250 Jurisdictional Determinations * * *

Sec. 33. 10 V.S.A. § 6007 is amended to read:

§ 6007. ACT 250 DISCLOSURE STATEMENT; JURISDICTIONAL DETERMINATION

* * *

(c) With respect to the partition or division of land, or with respect to an activity which might or might not constitute development, any person may submit to the district coordinator an "Act 250 Disclosure Statement" and other information required by the rules of the Board, and may request a jurisdictional opinion from the district coordinator concerning the applicability of this chapter. If a requestor wishes a final determination to be rendered on the question, the district coordinator, at the expense of the requestor and in accordance with rules of the Board, shall publish notice of the issuance of the opinion in a local newspaper generally circulating in the area where the land which is the subject of the opinion is located, and shall serve the opinion on all persons listed in subdivisions 6085(c)(1)(A) through (D) of this title. In addition, the requestor who is seeking a final determination shall consult with the district coordinator and obtain approval of a subdivision 6085(c)(1)(E) list of persons who shall be notified by the district coordinator because they are adjoining property owners or other persons who would be likely to be able to demonstrate a particularized interest protected by this chapter that may be affected by an act or decision by a District Commission.

(d) ~~A person who seeks review of a jurisdictional opinion issued by a district coordinator may request consideration by the Board of the issues addressed in the opinion.~~

~~(1) If the opinion was served on the person when issued, the person's request under this subsection shall be submitted to the Board within 30 days of the opinion's issuance.~~

~~(2) If the opinion was not served on the person when issued, the request shall be submitted to the Board:~~

~~(A) within 30 days from the date on which the opinion was served on the requestor; or~~

~~(B) at any time, if the opinion is never served on the requestor.~~

~~(3) The Board shall give notice of the request.~~

~~(A) The Board shall serve the notice on all persons listed in subdivisions 6085(c)(1)(A)-(D) of this title and post the notice on its website.~~

~~(B) If the request pertains to a jurisdictional opinion for which a final determination was requested under subsection (c) of this section, the Board shall:~~

~~(i) serve the notice on all persons on the approved subdivision 6085(c)(1)(E) list; and~~

~~(ii) publish at the expense of the requestor the notice in a local newspaper having general circulation in the area where the land which is the subject of the request is located.~~

~~(4) An act or decision of the Board under this subsection may be appealed to the Environmental Division pursuant to chapter 220 of this title.~~ [Repealed.]

Sec. 34. 10 V.S.A. § 6089 is amended to read:

§ 6089. APPEALS

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

Sec. 35. 10 V.S.A § 8503(b) is amended to read:

(b) This chapter shall govern:

(1) all appeals from an act or decision of a District Commission under chapter 151 of this title, excluding appeals of application fee refund requests;

(2) appeals from an act or decision of ~~the Natural Resources Board~~ a district coordinator under subsection ~~6007(d)~~ 6007(c) of this title;

(3) appeals from findings of fact and conclusions of law issued by the Natural Resources Board in its review of a designated growth center for conformance with the criteria of subsection 6086(a) of this title, pursuant to authority granted at 24 V.S.A. § 2793c(f).

Sec. 36. 10 V.S.A. § 8504(a) is amended to read:

(a) Act 250 and Agency appeals. Within 30 days of the date of the act or decision, any person aggrieved by an act or decision of the Secretary, ~~the Natural Resources Board, or~~ a District Commission, or a district coordinator under the provisions of law listed in section 8503 of this title, or any party by right, may appeal to the Environmental Division, except for an act or decision of the Secretary under subdivision 6086b(3)(E) of this title or governed by section 8506 of this title.

Sec. 37. 10 V.S.A. § 8504(e) is amended to read:

(e) Act 250 jurisdictional determinations by ~~the Natural Resources Board~~ a district coordinator.

(1) The appellant shall provide notice of the filing of an appeal to each person entitled to notice under subdivisions 6085(c)(1)(A) through (D) of this title ~~and~~, to each person on an approved subdivision 6085(c)(1)(E) list, and to the Natural Resources Board.

(2) Failure to appeal within the time required under subsection (a) of this section shall render the decision of the ~~Board~~ district coordinator under subsection ~~6007(d)~~ 6007(c) of this title the final determination regarding jurisdiction under chapter 151 of this title unless the underlying jurisdictional opinion ~~issued by the district coordinator~~ was not properly served on persons listed in subdivisions 6085(c)(1)(A) through (D) of this title and on persons on a subdivision 6085(c)(1)(E) list approved under subsection 6007(c) of this title.

* * * Effective Dates * * *

Sec. 38. EFFECTIVE DATES

This act shall take effect on January 1, 2018, except that:

(1) Sec. 4 (bulletin; revision) and this section shall take effect on passage and Secs. 1 (standard procedures) and 3 (environmental notice bulletin) shall apply to the implementation of Sec. 4.

(2) On passage, the Secretary of Natural Resources shall have authority to adopt rules in accordance with Sec. 1.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 214.

Senator Lyons, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to transfer of Exchange plan administration to health insurance carriers.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. § 1802 is amended to read:

§ 1802. DEFINITIONS

As used in this subchapter:

* * *

(5) "Qualified employer":

(A) means an entity which employed an average of not more than 50 employees on working days during the preceding calendar year and which:

(i) has its principal place of business in this State and elects to provide coverage for its eligible employees through the Vermont Health Benefit Exchange, regardless of where an employee resides; or

(ii) elects to provide coverage through the Vermont Health Benefit Exchange for all of its eligible employees who are principally employed in this State;

(B) on and after January 1, 2016, shall include an entity which:

(i) employed an average of not more than 100 employees on working days during the preceding calendar year; and

(ii) meets the requirements of subdivisions (A)(i) and (A)(ii) of this subdivision (5);

(C) ~~on and after January 1, 2018, shall include all employers meeting the requirements of subdivisions (A)(i) and (ii) of this subdivision (5), regardless of size.~~ [Repealed.]

* * *

Sec. 2. 33 V.S.A. § 1804 is amended to read:

§ 1804. QUALIFIED EMPLOYERS

* * *

(b)(1) ~~From~~ On and after January 1, 2016 ~~until January 1, 2017~~, a qualified employer shall be an entity which employed an average of not more than 100 employees on working days during the preceding calendar year and the term "qualified employer" includes self-employed persons to the extent permitted under the Affordable Care Act. The number of employees shall be calculated using the method set forth in 26 U.S.C. § 4980H(c)(2).

(2) An employer with 100 or fewer employees that offers a qualified health benefit plan to its employees through the Vermont Health Benefit Exchange may continue to participate in the Exchange even if the employer's size grows beyond 100 employees as long as the employer continuously makes qualified health benefit plans in the Vermont Health Benefit Exchange available to its employees.

(c) ~~On and after January 1, 2018, a qualified employer shall be an employer of any size which elects to make all of its full-time employees eligible for one or more qualified health plans offered in the Vermont Health Benefit Exchange, and the term "qualified employer" includes self-employed persons. A full-time employee shall be an employee who works more than 30 hours per week.~~ [Repealed.]

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

An act relating to large group insurance.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Committee Relieved of Further Consideration; Bill Committed

S. 151.

On motion of Senator Ayer, the Committee on Health and Welfare was relieved of further consideration of Senate bill entitled:

An act relating to Medicaid reimbursement for ambulance and emergency medical treatment services,

and the bill was committed to the Committee on Appropriations.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Thursday, March 10, 2016.

THURSDAY, MARCH 10, 2016

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Joan Javier-Duval of Montpelier.

Message from the House No. 30

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 458. An act relating to automatic voter registration through motor vehicle driver's license applications.

H. 507. An act relating to eligibility for economic development in impaired waters of the State.

H. 577. An act relating to voter approval of electricity purchases by municipalities and electric cooperatives.

In the passage of which the concurrence of the Senate is requested.

The House has considered joint resolutions originating in the Senate of the following titles:

J.R.S. 43. Joint resolution providing for a Joint Assembly to vote on the retention of four Superior Judges.

J.R.S. 44. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

The Governor has informed the House that on March 8, 2016, he approved and signed a bill originating in the House of the following title:

H. 611. An act relating to fiscal year 2016 budget adjustments.

The Governor has informed the House that on March 9, 2016, he approved and signed a bill originating in the House of the following title:

H. 187. An act relating to absence from work for health care and safety.

Bill Referred to Committee on Appropriations

S. 189.

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to foster parents' rights and protections.

Joint Resolution Placed on Calendar

J.R.S. 45.

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Committee on Institutions,

J.R.S. 45. Joint resolution relating to the transfer of two-State-owned parcels of land to the Town of Duxbury.

Whereas, 10 V.S.A. § 2606(b) authorizes the Commissioner of Forests, Parks and Recreation to exchange or lease certain lands with the approval of the General Assembly, and

Whereas, the General Assembly considers the following actions to be in the best interest of the State of Vermont, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly authorizes the Commissioner of Forests, Parks and Recreation to convey a 137-acre portion of Camel's Hump State Park and an adjacent 32.3-acre State-owned parcel known as the "Father Logue's Camp," both located in the Town of Duxbury, to the Town of Duxbury for use as a municipal forest, *and be it further*

Resolved: That the Town of Duxbury shall use these two parcels only for forestry, conservation, and recreation purposes, *and be it further*

Resolved: That to ensure these purposes are upheld, the Department shall convey a conservation easement encumbering these parcels to the Duxbury Land Trust, *and be it further*

Resolved: That in consideration of the public benefits associated with these transactions, these parcels shall be transferred to the Town at no cost, *and be it further*

Resolved: That these transactions are conditioned on the Town of Duxbury assuming all associated costs, including legal, survey, and permitting that may be necessary to complete these transactions, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the Commissioner of Forests, Parks and Recreation, to the Duxbury Town Clerk, and to the Duxbury Land Trust.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for notice the next legislative day.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 458.

An act relating to automatic voter registration through motor vehicle driver's license applications.

To the Committee on Government Operations.

H. 507.

An act relating to eligibility for economic development in impaired waters of the State.

To the Committee on Natural Resources and Energy.

H. 577.

An act relating to voter approval of electricity purchases by municipalities and electric cooperatives.

To the Committee on Finance.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 123. An act relating to standardized procedures for permits and approvals issued by the Department of Environmental Conservation.

S. 214. An act relating to transfer of Exchange plan administration to health insurance carriers.

Bills Amended; Third Readings Ordered

S. 40.

Senator Pollina, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to the creation of a Vulnerable Adult Fatality Review Team.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 33 V.S.A. chapter 69, subchapter 3 is added to read:

Subchapter 3. Vermont Vulnerable Adult Fatality Review Team

§ 6961. VERMONT VULNERABLE ADULT FATALITY REVIEW TEAM ESTABLISHED

(a) Creation. There is created a Vermont Vulnerable Adult Fatality Review Team (Team) within the Office of the Attorney General for the following purposes:

(1) to examine select cases of abuse- and neglect-related fatalities and preventable deaths of vulnerable adults in Vermont;

(2) to identify system gaps and risk factors associated with those deaths;

(3) to educate the public, service providers, and policymakers about abuse- and neglect-related fatalities and preventable deaths of vulnerable adults and strategies for intervention; and

(4) to recommend legislation, rules, policies, procedures, practices, training, and coordination of services to promote interagency collaboration and to improve systemic responses to the abuse and neglect of vulnerable adults.

(b)(1) Membership. The Team shall comprise the following members:

(A) the Attorney General or designee;

(B) the Commissioner of Disabilities, Aging, and Independent Living or designee;

(C) the Commissioner of Public Safety or designee;

(D) the Chief Medical Examiner or designee;

(E) the Assistant Director for Adult Protective Services in the Department of Disabilities, Aging, and Independent Living or designee;

(F) the Adult Services Division Director in the Department of Disabilities, Aging, and Independent Living or designee;

(G) the Director of the Vermont Office of Emergency Medical Services and Injury Prevention or designee;

(H) the State Long-Term Care Ombudsman;

(I) a representative of victim services, appointed by the Executive Director of the Vermont Center for Crime Victim Services;

(J) the Director of the Center on Aging at the University of Vermont, or a gerontologist or geriatrician appointed by the Director;

(K) the Director of Disability Rights Vermont or designee;

(L) a hospital representative, appointed by the Vermont Association of Hospitals and Health Systems;

(M) a long-term care facility representative, appointed by the Vermont Health Care Association; and

(N) a home health agency representative, appointed jointly by the Vermont Association of Home Health Agencies and designated home health agencies that are not members of the Vermont Association of Home Health Agencies.

(2) The members of the Team specified in subdivision (1) of this subsection shall serve two-year terms. Any vacancy on the Team shall be filled in the same manner as the original appointment. The replacement member shall serve for the remainder of the unexpired term.

(c) Meetings.

(1) The Attorney General or designee shall call the first meeting of the Team to occur on or before September 30, 2016.

(2) The Team shall select a chair and vice chair from among its members at the first meeting, and annually thereafter. The Vice Chair shall also serve as Secretary.

(3) The Team shall meet at such times as may reasonably be necessary to carry out its duties, but at least once in each calendar quarter.

§ 6962. POWERS AND DUTIES; REPORTS

(a) The Team shall develop and implement policies to ensure that the deaths of vulnerable adults in Vermont are reviewed using uniform procedures established by the Team.

(b)(1) The Team may review the death of any person who meets the definition of a vulnerable adult in subdivision 6902(14) of this title and:

(A) who was the subject of an adult protective services investigation; or

(B) whose death came under the jurisdiction of, or was investigated by, the Office of the Chief Medical Examiner.

(2) The Team shall not initiate the review of the death of a vulnerable adult until the conclusion of any adult protective services or law enforcement investigation, criminal prosecution, or civil action.

(3) The review shall not impose unreasonable burdens on health care providers for production of information, records, or other materials. The Team shall first seek to obtain information, records, and other materials from State agencies or that were generated in the course of an investigation by the Adult Protective Services Division, the Office of the Chief Medical Examiner, or law enforcement.

(4) The Team shall establish criteria for selecting specific fatalities for review to ensure the analysis of fatalities occurring in both institutional and home- and community-based settings.

(c)(1) Beginning in 2018, the Team shall submit an annual report to the General Assembly on or before January 15.

(2) The annual report shall:

(A) summarize the Team's activities for the preceding year;

(B) identify any changes to the Team's uniform procedures;

(C) identify system gaps and risk factors associated with deaths reviewed by the Team;

(D) recommend changes in statute, rule, policy, procedure, practice, training, or coordination of services that would decrease the number of preventable deaths in Vermont's vulnerable adult population; and

(E) assess the effectiveness of the Team's activities.

§ 6963. CONFIDENTIALITY

(a) The Team's proceedings and records are confidential and exempt from public inspection and copying under the Public Records Act, and shall not be released. Such information shall not be subject to subpoena or discovery or be admissible in any civil or criminal proceedings; provided, however, that nothing in this subsection shall be construed to limit or restrict the right to discover or use in any civil or criminal proceedings anything that is available from another source and entirely independent of the Team's review. The Team shall not use information, records, or data that it obtains or generates for purposes other than those described in this subchapter.

(b) The Team's conclusions and recommendations may be disclosed, but shall not identify or allow for the identification of any person or entity.

(c) Meetings of the Team are confidential and shall be exempt from the Vermont Open Meeting Law. The Secretary of the Team shall maintain any records, including meeting minutes, generated by the team.

(d) Team members and persons invited to assist the Team shall not reveal information, records, discussions, and opinions disclosed in connection with

the Team's work, and shall execute a sworn statement to honor the confidentiality of such information, records, discussions, and opinions. The Chair of the Team shall be responsible for obtaining and maintaining confidentiality agreements.

§ 6964. ACCESS TO INFORMATION AND RECORDS

(a) In any case subject to review by the Team, and upon written request by the Chair of the Team, any person who possesses information or records that are necessary and relevant to Team review shall as soon as practicable provide the Team with the information and records.

(b) The Team shall not have access to the proceedings, reports, and records of peer review committees as defined in 26 V.S.A. § 1441.

(c) Persons disclosing or providing information or records upon the Team's request are not criminally or civilly liable for disclosing or providing information or records in compliance with this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 116.

Senator Flory, for the Committee on Institutions, to which was referred Senate bill entitled:

An act relating to rights of offenders in the custody of the Department of Corrections.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 857 is added to read:

§ 857. ADMINISTRATIVE SEGREGATION; PROCEDURAL REQUIREMENTS

(a) Except in emergency circumstances as described in subsection (b) of this section, before an inmate is placed in administrative segregation, regardless of whether that inmate has been designated as having a serious functional impairment under section 906 of this title, the inmate is entitled to a hearing pursuant to subsection 852(b) of this title.

(b) In the event of an emergency situation and at the discretion of the Commissioner, an inmate may be placed in administrative segregation prior to receiving a hearing as described in subsection 852(b) of this title.

Sec. 2. 28 V.S.A. § 204 is amended to read:

§ 204. SUBMISSION OF WRITTEN REPORT; PROTECTION OF RECORDS

* * *

(d)(1) ~~Any~~ Except as provided in subdivision (2), any presentence report, pre-parole report, or supervision history prepared by any employee of the Department in the discharge of the employee's official duty, except as provided in subdivision 204a(b)(5) and section 205 of this title, is privileged and shall not be disclosed to anyone outside the Department other than the judge or the Parole Board~~, except that:~~.

(2)(A) ~~the~~ The court or Board ~~may in its discretion~~ shall permit the inspection of the report, ~~or parts thereof~~ redacted of information that may compromise the safety or confidentiality of any person, by the State's Attorney, and by the defendant or inmate~~,~~ or his or her attorney~~, or~~; and

(B) the court or Board may in its discretion permit the inspection of the report or parts thereof by other persons having a proper interest therein, whenever the best interest or welfare of the defendant or inmate makes that action desirable or helpful.

(3) Nothing in this section shall prohibit the Department for Children and Families from accessing the supervision history of probationers or parolees for the purpose of child protection.

* * *

Sec. 3. 28 V.S.A. § 601 is amended to read:

§ 601. POWERS AND RESPONSIBILITIES OF THE SUPERVISING OFFICER OF EACH CORRECTIONAL FACILITY

The supervising officer of each facility shall be responsible for the efficient and humane maintenance and operation and for the security of the facility, subject to the supervisory authority conferred by law upon the Commissioner. Each supervising officer is charged with the following powers and responsibilities:

* * *

(10) To establish and maintain, in accordance with such rules and regulations as are established by the Commissioner, a central file at the facility containing an individual file for each inmate. Except as otherwise may be

indicated by the rules and regulations of the Department, the content of the file of an inmate shall be confidential and shall not be subject to public inspection except by court order for good cause shown ~~and shall not be accessible to inmates at the facility~~. Information that may compromise the safety or confidentiality of any person shall be redacted from a file prior to inspection by an inmate. Except as otherwise provided by law, the contents of an inmate's file may be inspected, pursuant to a court order issued ex parte, by a ~~state~~ State or federal prosecutor as part of a criminal investigation if the court finds that the records may be relevant to the investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public.

Sec. 4. 28 V.S.A. § 602 is added to read:

§ 602. RIGHT OF AN INDIVIDUAL TO ACCESS RECORDS

(a) At the request of any person in the custody or under the supervision of the Department, the Department shall provide records maintained by the Department concerning that person if that person is:

(1) a party in a case in any division of the Superior Court in which the Department is also a party; or

(2) a defendant in a hearing before the Parole Board in which revocation of parole is a possible outcome.

(b) Nothing in this title concerning the confidentiality of the Department's records shall be construed as limiting a person's right to access records about himself or herself, except as specified in subsections (c) and (d) of this section.

(c) The Department shall redact any information compromising the safety or confidentiality of any person prior to providing the record to a person under this section.

(d) The Department may seek a court order limiting disclosure of records. The order may be granted only if the court finds clear and convincing evidence that disclosure of records would create a substantial and identifiable risk to public safety.

(e) As used in this section, "records" means records stored in any form, physical or electronic.

Sec. 5. 13 V.S.A. § 5233 is amended to read:

§ 5233. EXTENT OF SERVICES

(a) A needy person who is entitled to be represented by an attorney under section 5231 of this title is entitled:

* * *

(3) To be represented in any other postconviction proceeding which may have more than a minimal effect on the length or conditions of detention where the attorney considers:

(A) the claims, defenses, and other legal contentions to be warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(B) the allegations and other factual contentions to have evidentiary support, or likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

* * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Senator Benning, for the Committee on Judiciary, to which the bill was referred, reported that it has considered the same and recommends that the bill be amended as recommended by the Committee on Institutions with the following amended thereto:

By striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 28 V.S.A. § 456 is added to read:

§ 456. PAROLE BOARD INDEPENDENCE

(a) The Parole Board shall be an independent and impartial body.

(b) The Parole Board shall not be counseled or represented by any attorney who, at the same time, has:

(1) an attorney-client relationship with the Department of Corrections; or

(2) an attorney-client relationship with an offender who has a hearing pending before the Board.

Sec. 2. 28 V.S.A. § 857 is added to read:

§ 857. ADMINISTRATIVE SEGREGATION; PROCEDURAL REQUIREMENTS

(a) Except in emergency circumstances as described in subsection (b) of this section, before an inmate is placed in administrative segregation, regardless of whether that inmate has been designated as having a serious

functional impairment under section 906 of this title, the inmate is entitled to a hearing pursuant to subsection 852(b) of this title.

(b) In the event of an emergency situation and at the discretion of the Commissioner, an inmate may be placed in administrative segregation prior to receiving a hearing as described in subsection 852(b) of this title.

Sec. 3. 28 V.S.A. § 204 is amended to read:

§ 204. SUBMISSION OF WRITTEN REPORT; PROTECTION OF RECORDS

* * *

(d)(1) ~~Any~~ Except as provided in subdivision (2) of this subsection, any presentence report, pre-parole report, or supervision history prepared by any employee of the Department in the discharge of the employee's official duty, except as provided in subdivision 204a(b)(5) and section 205 of this title, is privileged and shall not be disclosed to anyone outside the Department other than the judge or the Parole Board~~, except that:~~.

(2)(A) ~~the~~ The court or Board ~~may in its discretion~~ shall permit the inspection of the report, ~~or parts thereof~~ redacted of information that may compromise the safety or confidentiality of any person, by the State's Attorney~~,~~ and by the defendant or inmate~~,~~ or his or her attorney~~, or~~; and

(B) the court or Board may, in its discretion, permit the inspection of the report or parts thereof by other persons having a proper interest therein, whenever the best interest or welfare of the defendant or inmate makes that action desirable or helpful.

(3) Nothing in this section shall prohibit the Department for Children and Families from accessing the supervision history of probationers or parolees for the purpose of child protection.

* * *

Sec. 4. 28 V.S.A. § 601 is amended to read:

§ 601. POWERS AND RESPONSIBILITIES OF THE SUPERVISING OFFICER OF EACH CORRECTIONAL FACILITY

The supervising officer of each facility shall be responsible for the efficient and humane maintenance and operation and for the security of the facility, subject to the supervisory authority conferred by law upon the Commissioner. Each supervising officer is charged with the following powers and responsibilities:

* * *

(10) To establish and maintain, in accordance with such rules and regulations as are established by the Commissioner, a central file at the facility containing an individual file for each inmate. Except as otherwise may be indicated by the rules and regulations of the Department, the content of the file of an inmate shall be confidential and shall not be subject to public inspection except by court order for good cause shown ~~and shall not be accessible to inmates at the facility~~. Information that may compromise the safety or confidentiality of any person shall be redacted from a file prior to inspection by an inmate. Except as otherwise provided by law, the contents of an inmate's file may be inspected, pursuant to a court order issued ex parte, by a ~~state~~ State or federal prosecutor as part of a criminal investigation if the court finds that the records may be relevant to the investigation. The information in the files may be used for any lawful purpose but shall not otherwise be made public.

Sec. 5. 28 V.S.A. § 602 is added to read:

§ 602. RIGHT OF AN INDIVIDUAL TO ACCESS RECORDS

(a) At the request of any person in the custody or under the supervision of the Department, the Department shall provide records maintained by the Department concerning that person if that person is:

(1) a party in a case in any division of the Superior Court in which the Department is also a party; or

(2) a defendant in a hearing before the Parole Board in which revocation of parole is a possible outcome.

(b) Nothing in this title concerning the confidentiality of the Department's records shall be construed as limiting a person's right to access records about him- or herself, except as specified in subsections (c) and (d) of this section.

(c) The Department shall redact any information compromising the safety or confidentiality of any person prior to providing the record to a person under this section.

(d) The Department may seek a court order limiting disclosure of records. The order may be granted only if the court finds by a preponderance of the evidence that disclosure of records would create a substantial and identifiable risk to public safety.

(e) As used in this section, "records" means records stored in any form, physical or electronic.

Sec. 6. 13 V.S.A. § 5233 is amended to read:

§ 5233. EXTENT OF SERVICES

(a) A needy person who is entitled to be represented by an attorney under section 5231 of this title is entitled:

* * *

(3) To be represented in any other postconviction proceeding which may have more than a minimal effect on the length or conditions of detention where the attorney considers:

(A) the claims, defenses, and other legal contentions to be warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(B) the allegations and other factual contentions to have evidentiary support, or likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

* * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Institutions was amended as recommended by the Committee on Judiciary.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Institutions, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Message from the House No. 31

A message was received from the House of Representatives by Ms. Melissa Kucserik, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed a House bill of the following title:

H. 829. An act relating to water quality on small farms.

In the passage of which the concurrence of the Senate is requested.

Adjournment

On motion of Senator Baruth, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

FRIDAY, MARCH 11, 2016

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bill Referred to Committee on Appropriations

S. 107.

Senate bill of the following title, appearing on the Calendar for notice and carrying an appropriation or requiring the expenditure of funds, under the rule was referred to the Committee on Appropriations:

An act relating to the Agency of Health Care Administration.

Bill Referred to Committee on Finance

S. 250.

Senate bill of the following title, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule was referred to the Committee on Finance:

An act relating to farm distilleries and Vermont barrel aged maple spirits.

Bill Referred

House a bill of the following title was read the first time and referred:

H. 829.

An act relating to water quality on small farms.

To the Committee on Agriculture.

Bill Amended; Third Reading Ordered

S. 75.

Senator Collamore, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to food and lodging establishments.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. chapter 85 is amended to read:

CHAPTER 85. FOOD AND LODGING ESTABLISHMENTS

Subchapter 1. Food and Lodging Establishments Generally

§ 4301. FOOD ESTABLISHMENTS; DEFINITIONS

(a) As used in this subchapter:

(1) ~~"Food" shall include all articles used for food, drink, confectionery, or condiment, by man, whether simple, mixed, or compound, and all substances and ingredients used in the preparation thereof.~~ "Bakery" means all buildings, rooms, basements, cellars, lofts, or other premises or part thereof, used, occupied, or maintained for the purpose of producing for sale bread, cakes, pies, or other food products made either wholly or partially with flour.

(2) "Children's camp" means any seasonal establishment operated not more than 90 days per year and offering a camping program that provides food, lodging, or both to vacationing youth or family groups.

(3) "Commissioner" means the Commissioner of Health.

(4) "Department" means the Department of Health.

(5) "Establishment" ~~shall include all buildings, rooms, basements, cellars, lofts, or other premises or part thereof, used, occupied, or maintained for the purpose of manufacturing, preparing, packing, canning, bottling, keeping, storing, handling, serving, or distributing in any manner, food for sale~~ means food manufacturing establishments, food service establishments, lodging establishments, seafood vending facilities, and shellfish reshippers and repackers.

(6) "Food" means articles of food, drink, confectionery, or condiment for human consumption, whether simple, mixed, or compound, and all substances and ingredients used in the preparation thereof.

(7) "Food manufacturing establishment" means all buildings, rooms, basements, cellars, lofts, or other premises or part thereof, used, occupied, or maintained for the purpose of manufacturing, preparing, packing, canning, bottling, keeping, storing, handling, serving, or distributing food for sale. A food manufacturing establishment shall include food processors, bakeries, distributers, and warehouses.

(8) "Food service establishment" means entities that prepare, serve, and sell food to the public, including restaurants, temporary food vendors, caterers, mobile food units, and limited operations as defined in rule.

(9) "Lodging establishment" means any place where overnight accommodations are regularly provided to the transient, traveling, or

vacationing public, including hotels, motels, inns, bed and breakfasts, and children's camps.

(10) "Salvage food" means any food product from which the label on the packaging has been lost or destroyed or which has been subjected to possible damage as the result of an accident, fire, flood, or other cause that prevents the product from meeting the specifications of the manufacturer or the packer, but is otherwise suitable for human consumption.

(11) "Salvage food facility" means any food vendor for which salvage food comprises 50 percent or more of gross sales.

(12) "Seafood vending facility" means a store, motor vehicle, retail stand, or similar place from which a person sells seafood for human consumption.

(13) "Shellfish reshipper and repacker" means an establishment engaging in interstate commerce of molluskan shellfish.

(b) Nothing in this ~~subchapter~~ chapter shall be construed to modify or affect laws or ~~regulations~~ rules of the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets.

§ 4302. GENERAL REQUIREMENTS

(a) A person shall not manufacture, prepare, pack, can, bottle, keep, store, handle, serve, or distribute in any manner food for the purpose of sale, in an unclean, unsanitary, or unhealthful establishment or under unclean, unsanitary, or unhealthful conditions.

(b) A person shall not engage in the business of conducting a lodging establishment under unclean, unsanitary, or unhealthful conditions.

§ 4303. ~~SPECIAL PROVISIONS~~ RULEMAKING

The Commissioner shall adopt rules pursuant to 3 V.S.A. chapter 25 to establish minimum standards for the safe and sanitary operation of food and lodging establishments and their administration and enforcement. ~~Subject to the provisions of this subchapter,~~ The rules shall require that an establishment shall be constructed, maintained, and operated with strict regard for the health of the employees and ~~for the purity and wholesomeness of the food therein produced, kept, stored, handled, served, or distributed, so far as may be reasonable and necessary in the public interest and consistent with the character of the establishment,~~ the public pursuant to the following general requirements:

(1) The entire establishment and its immediate appertaining premises, including the fixtures and furnishings, the machinery, apparatus, implements,

utensils, receptacles, vehicles, and other devices used in the production, keeping, storing, handling, serving, or distributing of the food, or the materials used in the food, shall be constructed, maintained, and operated in a clean, sanitary, and healthful manner~~;~~.

(2) The food and the materials used in the food shall be protected from any foreign or injurious contamination ~~which~~ that may render them unfit for human consumption~~;~~.

(3) The clothing, habits, and conduct of the employees shall be conducive to and promote cleanliness, sanitation, and healthfulness~~;~~.

(4) There shall be proper, suitable, and adequate toilets and lavatories, constructed, maintained, and operated in a clean, sanitary, and healthful manner~~;~~.

(5) There shall be proper, suitable, and adequate water supply, heating, ~~light~~ lighting, ventilation, drainage, sewage disposal, and plumbing.

(6) There shall be proper operation and maintenance of pools, recreation water facilities, spas, and related facilities within lodging establishments.

(7) The Commissioner may adopt any other minimum conditions that he or she deems necessary for the operation and maintenance of a food or lodging establishment in a safe and sanitary manner.

§ 4304. EMPLOYEES

(a) An employer shall not ~~require, permit, or suffer any~~ allow a person affected with any contagious, infectious, or other disease or physical ailment ~~which~~ that may render ~~such~~ employment detrimental to the public health to work in ~~such~~ an establishment, and a person so affected shall not work in ~~any such~~ an establishment subject to the provisions of this ~~subchapter~~ chapter.

(b) The Commissioner may require a person employed in an establishment subject to the provisions of this chapter to undergo medical testing or an examination necessary for the purpose of determining whether the person is affected by a contagious, infectious, or other disease or physical ailment that may render his or her employment detrimental to public health. The Commissioner may prohibit a person from working in an establishment pursuant to section 127 of this title if the person refuses to submit to medical testing or an examination.

* * *

§ 4305. ~~POWERS AND DUTIES OF STATE BOARD OF HEALTH~~

~~The board may require a person proposing to work or working in an establishment subject to the provisions of this subchapter, to undergo a~~

~~physical examination for the purpose of ascertaining whether such person is affected with any contagious, infectious, or other disease or physical ailment, which may render his or her employment detrimental to the public health. The examination shall be made at the time and pursuant to conditions which shall be prescribed by the board. A person who refuses to submit to such examination shall not work or be required, permitted, or suffered to work in any such establishment.~~ [Repealed.]

§ 4306. INSPECTION

(a) It shall be the duty of the ~~board~~ Commissioner to enforce the provisions of this ~~subchapter~~ chapter and of 6 V.S.A. § 3312(d), and ~~it~~ he or she shall be permitted to inspect through ~~its~~ his or her duly authorized officers, inspectors, agents, or assistants, at all reasonable times, an establishment ~~and~~, an establishment's records, and a salvage food facility subject to the provisions of this ~~subchapter~~ chapter.

(b) Whenever an inspection demonstrates that the establishment or salvage food facility is not operated in accordance with the provision of this chapter, the officer, inspector, agent, or assistant shall notify the licensee of the conditions found and direct necessary changes.

§ 4307. HEARING; ORDERS

When ~~it appears upon such~~ an inspection reveals that ~~any~~ an establishment is being maintained or operated in violation of the provisions of this ~~subchapter~~ chapter or any related rules, the ~~board~~ Commissioner shall ~~cause~~ provide written notice ~~thereof~~, together with an order commanding ~~an~~ both abatement of ~~such~~ the violation and ~~a~~ compliance with this ~~subchapter~~ chapter within a reasonable period of time to be fixed in the order~~, to be served by a proper officer upon the person violating such provisions~~. Under ~~such~~ any related rules ~~and regulations as may be prescribed~~ adopted by the ~~board~~ Commissioner, a person upon whom ~~such~~ the notice and order are served shall be given an opportunity to be heard and to show cause as to why ~~such~~ the order should be vacated or amended. When, upon ~~such~~ a hearing, it appears that the provisions of this ~~subchapter~~ chapter have not been violated, the ~~board~~ Commissioner shall immediately vacate ~~such~~ the order, but without prejudice. When, however, it appears that ~~such~~ the provisions have been violated and ~~such~~ the person fails to comply with an order issued by the ~~board~~ Commissioner under the provisions of this section, the ~~board~~ Commissioner shall~~, forthwith, certify the facts to the proper prosecuting office~~ revoke, modify, suspend, or enforce a civil penalty.

§ 4308. ~~REGULATIONS~~

~~The board shall make uniform and necessary rules and regulations for carrying out the provisions of this subchapter.~~ [Repealed.]

§ 4309. PENALTY

A person who violates a provision of this ~~subchapter~~ chapter or 6 V.S.A. § 3312(d)~~, for which no other penalty is provided, shall be fined not more than $300.00 for the first offense and, for each subsequent offense, not more than $500.00~~ shall be fined a civil penalty not to exceed $10,000.00 for each violation. In the case of a continuing violation, each subsequent day in violation may be deemed a separate violation.

Subchapter 2. Licensing Food and Lodging Establishments

§ 4351. LICENSE FROM DEPARTMENT OF HEALTH

(a) A person shall not operate or maintain a ~~hotel, inn, restaurant, tourist camp~~ food manufacturing facility, retail food establishment, lodging establishment, seafood vending facility, or any other place in which food is prepared and served~~, or lodgings provided or furnished to the transient traveling or vacationing public, or a seafood vending facility~~, unless he or she ~~shall have first obtained and holds~~ obtains and holds from the ~~department~~ Commissioner a license authorizing such operation. ~~The secretary may prescribe rules or conditions within which he or she may issue a temporary license for a period not to exceed 60 days. The license shall state the rules or conditions under which it is issued. However, nothing herein shall apply to any person who occasionally prepares and serves meals or provides occasional lodgings. The license shall be displayed in such a way as to be easily viewed by the patrons.~~ All licenses shall be displayed in a manner as to be easily viewed by the public.

(b) ~~For purposes of this section, "seafood vending facility" includes a store, motor vehicle, stand, or similar place from which a person sells seafood for consumption at another location.~~

(1) A person shall not knowingly and willingly sell or offer for sale a bulk product manufactured by a bakery, regardless of whether the bakery is located in or outside the State, unless the operator of the bakery holds a valid license from the Commissioner.

(2) The Commissioner shall not grant a license to a bakery located outside the State unless:

(A) the person operating the bakery:

(i) has consented in writing to the Department's inspection and paid the required fee; or

(ii) has presented to the Department satisfactory evidence of inspection and approval from the proper authority in his or her state and paid the required fee; and

(B) inspection of the bakery confirms that it meets the laws and rules of this State.

(c) The Commissioner may issue a temporary license for no more than 90 days. The temporary license shall state the conditions under which it is issued.

(d) If the Commissioner does not renew a license, he or she shall provide written notice to the licensee. The notice shall specify any changes necessary to conform with State rules and shall state that if compliance is achieved within the time designated in the notice, the license shall be renewed. If the licensee fails to achieve compliance within the prescribed time, the licensee shall have an opportunity for a hearing.

(e) Any licensee or perspective licensee aggrieved by a decision or order of the Commissioner may appeal to the Board of Health within 30 days of that decision. Hearings by the Board under this section shall be subject to the provisions of 3 V.S.A. chapter 25 relating to contested cases. The Board shall consider the matter de novo and all persons, parties, and interests may appear and be heard. The Board shall issue an order within 30 days following the conclusion of the hearing.

(f) If a licensee fails to renew his or her license within 60 days of its expiration date, a licensee shall apply for a new license and meet all licensure requirements anew.

§ 4352. APPLICATION

A person desiring to operate ~~a place~~ an establishment in which food is prepared and served or in which lodging is offered to the public shall apply to the ~~board~~ Commissioner upon forms supplied by the ~~board~~ Department and shall pay a license fee as provided by section 4353 of this title. An application for licensure shall be submitted no fewer than 30 days prior to the opening of a food or lodging establishment. Upon receipt of such license fee and when satisfied that the premises are sanitary and healthful in accordance with the provisions of this chapter and related rules, the ~~board~~ Commissioner shall issue a license to the applicant with respect to the premises described therein.

§ 4353. FEES

(a) The Commissioner may establish by rule any requirement the Department needs to determine the applicable license fee category or any

license exemption. The following fees shall be paid annually to the ~~Board~~ Department at the time of making the application according to the following schedules:

(1) Restaurant I—Seating capacity of 0 to 25; $105.00

II—Seating capacity of 26 to 50; $180.00

III—Seating capacity of 51 to 100; $300.00

IV—Seating capacity of 101 to 200; $385.00

V—Seating capacity ~~of 201 to 599~~ over 200; $450.00

~~VI—Seating capacity 600 and over; $1,000.00~~

~~VII—~~Home Caterer; $155.00

~~VIII~~ VII—Commercial Caterer; $260.00

~~IX~~ VIII—Limited Operations; $140.00

~~X~~ IX—Fair Stand; $125.00; if operating for four or more days per year; $230.00

(2) Lodging establishments

I—Lodging capacity of 1 to 10; $130.00

II—Lodging capacity of 11 to 20; $185.00

III—Lodging capacity of 21 to 50; $250.00

IV—Lodging capacity ~~of 51 to 200~~ over 50; $390.00

V—~~Lodging capacity of over 200; $1,000.00~~ Children's camps; $150.00

(3) Food ~~processor~~ manufacturing establishment—a fee for any person or persons that process food for resale to restaurants, stores, or individuals according to the following schedule:

(A) Food manufacturing establishments; nonbakeries

I—Gross receipts of $10,001.00 to $50,000.00; $175.00

~~(B)~~ II—Gross receipts of over $50,000.00; $275.00

III —Gross receipts of $10,000.00 or less are exempt pursuant to section 4358 of this title

(B) Food manufacturing establishments; bakeries

I—Home bakery; $100.00

II—Small commercial; $200.00

III—Large commercial; $350.00

(4) Seafood vending facility—$200.00, unless operating pursuant to another license issued by the Department of Health and generating less than $40,000.00 in seafood gross receipts annually. If generating more than $40,000.00 in seafood gross receipts annually, the fee is to be paid regardless of whether the facility is operating pursuant to another license issued by the Department ~~of Health~~.

(5) Shellfish reshippers and repackers—$375.00.

(b) The Commissioner ~~of Health will~~ shall be the final authority on definition of categories contained herein.

(c) All fees received by the ~~Board~~ Department under this section shall be credited to a special fund and shall be available to the Department to offset the cost of providing the services.

§ 4354. TERM OF LICENSE

Licenses shall expire annually on a date established by the ~~department~~ Department and ~~shall be renewable~~ may be renewed upon the payment of a new license fee if the licensee is in good standing with the Department.

§ 4355. ~~REGULATIONS; REPORTS~~

~~(a) The board may prescribe such rules and regulations as may be necessary to ensure the operation in a sanitary and healthful manner of places in which food is prepared and served to the public or in which lodgings are provided. All reports which such board may require shall be on forms prescribed by it.~~

~~(b) The board shall not adopt any rule requiring food establishments that operate less than six months of the year and provide outdoor seating for no more than 16 people to provide toilet facilities to patrons, and any such rule or portion thereof now in effect is repealed.~~ [Repealed.]

§ 4356. ~~INSPECTION, REVOCATION~~

~~The members of the board and any person in its employ and by its direction, at reasonable times, may enter any place operated under the provisions of sections 4351-4355 of this title, so far as may be necessary in the discharge of its duties. Whenever upon such inspection it is found that the premises are not being conducted in accordance with the provisions of the above named sections or the regulations adopted in accordance therewith, such board shall notify the licensee of the conditions found and direct such changes as are~~

~~necessary. If such licensee shall fail within a reasonable time to comply with such orders, rules, or regulations adopted under the provisions of such sections, the board shall revoke the license.~~ [Repealed.]

§ 4357. ~~PENALTY~~

~~A person who violates any provision of this subchapter shall be fined not more than $500.00.~~ [Repealed.]

§ 4358. EXEMPTIONS

(a) The provisions of this subchapter shall apply only to ~~such~~ those hotels, inns, restaurants, tourist camps, and other places ~~as~~ that solicit the patronage of the public by advertising by means of signs, notices, placards, radio, electronic communications, or printed announcements.

(b) The provisions of this subchapter shall not apply to an individual manufacturing and selling bakery products from his or her own home kitchen whose average gross retail sales do not exceed $125.00 per week.

(c) Any food manufacturing establishment claiming a licensing exemption shall provide documentation as required by rule.

(d) The Commissioner shall not adopt a rule requiring food establishments that operate less than six months of the year and provide outdoor seating for less than 16 people at one time to provide toilet and hand washing facilities for patrons.

* * *

~~Subchapter 4. Bakeries~~

§ 4441. ~~BAKERY PRODUCTS; DEFINITION~~

~~For the purposes of this subchapter,~~

~~(1) The word "bakery" is defined as a building or part of a building wherein is carried on as a principal occupation the production of bread, cakes, pies, or other food products made either wholly or in part of flour and intended for sale.~~

~~(2) The word "person" shall extend and be applied to bodies corporate, and to partnerships and unincorporated associations.~~ [Repealed.]

§ 4442. ~~RULES AND INSPECTION BY STATE BOARD OF HEALTH~~

~~The Board shall adopt and enforce rules as the public health may require in respect to the sanitary conditions of bakeries as defined herein. The Board is hereby authorized to inspect any such bakery at all reasonable times through its duly appointed officers, inspectors, agents, or assistants.~~ [Repealed.]

§ 4443. ~~SLEEPING ROOMS SEPARATE~~

~~The sleeping rooms for persons employed in a bakery shall be separated from the rooms where food products or any ingredient thereof are manufactured or stored.~~ [Repealed.]

§ 4444. ~~LICENSE~~

~~(a) No person shall operate a bakery in this state without having obtained from the department a license describing the building used as a bakery, including the post office address of the same, which license shall be posted by the owner or operator of such bakery in a conspicuous place in the shop described in such license or in the sales room connected therewith.~~

~~(b) No person shall knowingly and willfully sell or offer for sale in this state any bulk product manufactured by a bakery, whether such a bakery is located within or without the state, unless the operator of such bakery shall hold a valid license, as prescribed, from the department, which license shall in no case be granted covering a bakery located outside the state unless the person operating such bakery shall have consented in writing to its inspection and paid the fee as herein provided, or shall have paid the fee and received a license after presenting to the department satisfactory evidence of inspection and approval from the proper authority of his or her own state, and such bakery shall have been found by the inspection to meet the requirements of the laws of this state and rules and regulations of the secretary relating thereto.~~ [Repealed.]

§ 4445. ~~RENEWAL OF LICENSE~~

~~The holder of such a license who desires to continue to operate a bakery shall annually, commencing on or before January 31, 1974, and thereafter on or before January 31, renew his or her license, pay the renewal fee, and receive a new license provided the licensee is entitled thereto.~~ [Repealed.]

§ 4446. ~~FEE~~

~~(a) A person owning or conducting a bakery as specified in sections 4441 and 4444 of this title shall pay to the Board a fee for each certificate and renewal thereof in accordance with the following schedule:~~

~~Bakery I – Home Bakery; $100.00~~

~~II – Small Commercial; $200.00~~

~~III – Large Commercial; $350.00~~

~~IV – Camps; $150.00~~

~~(b) The Commissioner of Health will be the final authority on definition of categories contained herein.~~

~~(c) All fees received by the Board under this section shall be credited to a special fund and shall be available to the Department to offset the cost of providing the services.~~ [Repealed.]

§ 4447. ~~REVOCATION~~

~~Such license may be suspended or revoked by the board for cause after hearing.~~ [Repealed.]

§ 4448. ~~NEW BAKERY~~

~~No person shall open a new bakery in this state without having given at least 15 days' notice to the department of intention to open such bakery which notice shall contain a description and location of the building proposed to be used as such bakery. Upon receipt of such notice, the department shall cause such premises to be examined and, if found to comply with the provisions and statutes relating to bakeries and the rules and regulations prescribed by the secretary, a license shall be issued upon payment of the fee as herein provided.~~ [Repealed.]

§ 4449. ~~LOCAL REGULATIONS~~

~~The provisions of this subchapter shall not prevent local health authorities from making and enforcing orders or regulations concerning the sanitary condition of bakeries and the sale of bakery products, except that such orders and regulations shall be suspended to the extent necessary to give effect to the provisions of this subchapter and the rules and regulations prescribed pursuant thereto.~~ [Repealed.]

§ 4450. ~~PENALTY~~

~~A person who violates any provisions of this subchapter shall be fined not more than $500.00.~~ [Repealed.]

§ 4451. ~~EXCEPTIONS~~

~~The provisions of this subchapter shall not apply to individuals manufacturing in and selling from their own private home kitchens bread, cakes, pies, or other food products made either wholly or in part from flour whose average gross retail sales of such products do not exceed $125.00 a week, nor to restaurants, inns, or hotels subject to the provisions of subchapter 2 of this chapter, nor to church, fraternal, or charitable food sales.~~ [Repealed.]

~~Subchapter 5. Salvage Food Facilities~~

§ 4461. ~~DEFINITIONS~~

~~For the purposes of this subchapter:~~

~~(1) "Salvage food" means any food product from which the label on the packaging has been lost or destroyed or which has been subjected to possible damage as the result of accident, fire, flood, or other cause which may prevent the product from meeting the specifications of the manufacturer or the packer, but is otherwise suitable for human consumption.~~

~~(2) "Salvage food facility" means a food vendor for which salvage foods comprise 50 percent or more of gross sales.~~ [Repealed.]

§ 4462. ~~REGULATIONS AND INSPECTION~~

~~The state board of health is authorized to inspect any salvage food facility at all reasonable times through its officers, inspectors, agents, or assistants.~~ [Repealed.]

~~Subchapter 6. Temporary Outdoor Seating~~

§ 4465. ~~LIMITED FOOD ESTABLISHMENTS; TEMPORARY OUTDOOR SEATING~~

~~A food establishment that prepares and serves food for off premises uses may provide temporary outdoor seating for up to 16 persons from May 1 to October 31 without providing patron toilet or handwashing facilities.~~ [Repealed.]

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

And that when so amended the bill ought to pass.

Senator Ayer, for the Committee on Finance, to which the bill was referred, reported that they have considered the same and recommend that the bill be amended as recommended by the Committee on Health and Welfare with the following amendment thereto:

In Sec. 1, by striking out 18 V.S.A. § 4353, subsection (a), in its entirety and inserting in lieu thereof the following:

(a) The Commissioner may establish by rule any requirement the Department needs to determine the applicable license fee category or any license exemption. The following fees shall be paid annually to the Board at the time of making the application according to the following schedules:

(1) Restaurant I—Seating capacity of 0 to 25; $105.00

II—Seating capacity of 26 to 50; $180.00

III—Seating capacity of 51 to 100; $300.00

IV—Seating capacity of 101 to 200; $385.00

V—Seating capacity of 201 to 599; $450.00

VI—Seating capacity 600 and over; $1,000.00

VII—Home Caterer; $155.00

VIII—Commercial Caterer; $260.00

IX—Limited Operations; $140.00

X—Fair Stand; $125.00; if operating for four or more days per year; $230.00

(2) Lodging establishments

I—Lodging capacity of 1 to 10; $130.00

II—Lodging capacity of 11 to 20; $185.00

III—Lodging capacity of 21 to 50; $250.00

IV—Lodging capacity of 51 to 200; $390.00

V—Lodging capacity of over 200; $1,000.00

VI—Children's camps; $150.00

(3) Food ~~processor~~ manufacturing establishment—a fee for any person or persons that process food for resale to restaurants, stores, or individuals according to the following schedule:

(A) Food manufacturing establishments; nonbakeries

I—Gross receipts of $10,001.00 to $50,000.00; $175.00

~~(B)~~II—Gross receipts of over $50,000.00; $275.00

III—Gross receipts of $10,000.00 or less are exempt pursuant to section 4358 of this title

(B) Food manufacturing establishments; bakeries

I—Home bakery; $100.00

II—Small commercial; $200.00

III—Large commercial; $350.00

(4) Seafood vending facility—$200.00, unless operating pursuant to another license issued by the Department of Health and generating less than $40,000.00 in seafood gross receipts annually. If generating more than $40,000.00 in seafood gross receipts annually, the fee is to be paid regardless

of whether the facility is operating pursuant to another license issued by the Department ~~of Health~~.

(5) Shellfish reshippers and repackers—$375.00.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Health and Welfare was amended as recommended by the Committee on Finance.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Health and Welfare, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Bill Amended; Bill Passed

S. 40.

Senate bill entitled:

An act relating to the creation of a Vulnerable Adult Fatality Review Team.

Was taken up.

Thereupon, pending third reading of the bill, Senator Pollina moved to amend the bill as follows:

First: In Sec. 1, in 33 V.S.A. § 6962, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) The Team shall develop and implement policies to ensure that it uses uniform procedures to review the deaths of vulnerable adults in Vermont.

Second: In Sec. 1, in 33 V.S.A. § 6962, in subdivision (b)(2), following the word "any" by inserting the word active

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Kitchel and Sears moved to amend the bill as follows:

First: In Sec. 1, in 33 V.S.A. § 6961, by striking out subdivision (a)(4) in its entirety and inserting in lieu thereof a new subdivision (a)(4) to read as follows:

(4) to recommend legislation, rules, policies, procedures, practices, training, and coordination of services to promote interagency collaboration and prevent future abuse- and neglect-related fatalities.

Second: By adding a new section to be numbered Sec. 2 to read as follows:

Sec. 2. 33 V.S.A. § 6905 is amended to read:

§ 6905. MANDATORY REPORTING TO AND POSTMORTEM INVESTIGATION OF DEATHS BY THE OFFICE OF THE CHIEF MEDICAL EXAMINER

When a person making a report of suspected abuse, neglect, or exploitation of a vulnerable adult has reasonable cause to believe that a vulnerable adult died as a result of abuse or neglect, the Department shall notify the Office of the Chief Medical Examiner immediately.

And by renumbering the existing Sec. 2, effective date, to be Sec. 3.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Bill Passed

S. 116.

Senate bill of the following title was read the third time and passed:

An act relating to rights of offenders in the custody of the Department of Corrections.

Bill Amended; Third Reading Ordered

S. 157.

Senator Collamore, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to breast density notification and education.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 158 is added to read:

§ 158. DENSE BREAST NOTIFICATION AND EDUCATION

(a) All health care facilities that perform mammography examinations shall include in the summary of the mammography report to be provided to a patient information that identifies the patient's individual breast tissue classification based on the Breast Imaging Reporting and Data System established by the American College of Radiology. If a facility determines that a patient has heterogeneously dense or extremely dense breasts, the summary of the mammography report shall also include a notice substantially similar to the following:

"Your mammogram indicates that you have dense breast tissue. Dense breast tissue is a normal finding that is present in about 40 percent of women. Dense breast tissue can make it more difficult to detect cancer on a mammogram and may be associated with a slightly increased risk for breast cancer. This information is provided to raise your awareness of the impact of breast density on cancer detection and to encourage you to discuss this issue, as well as other breast cancer risk factors, with your health care provider as you decide together which screening options may be right for you."

(b) Facilities that perform mammography examinations may update the language in their notices over time to reflect advances in science and technology, as long as they continue to notify patients about the frequency of dense breast tissue and its effect on the accuracy of mammograms and encourage patients to discuss the issue with their health care provider. Facilities shall notify the Department of Health each time they make changes to the notice required by this section and shall provide an updated copy for the Department's information and review.

(c) Nothing in this section shall be construed to create a duty of care or other legal obligation beyond the duty to provide notice as set forth in this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016 and shall apply to exams performed on or after January 15, 2017.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 183.

Senator Sears, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to permanency for children in the child welfare system.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 14 V.S.A. § 2664 is amended to read:

§ 2664. CREATION OF PERMANENT GUARDIANSHIP

(a) The ~~family division of the superior court~~ Family Division of the Superior Court may establish a permanent guardianship at a permanency planning hearing or at any other hearing in which a permanent legal disposition of the child can be made, including a child protection proceeding pursuant to 33 V.S.A. § 5318, or a delinquency proceeding pursuant to 33 V.S.A. § 5232. The court shall also issue an order permitting or denying visitation, contact or information with the parent at the same time the order of permanent guardianship is issued. Before issuing an order for permanent guardianship, the court shall find by clear and convincing evidence all of the following:

(1) Neither parent is ~~capable or willing to provide adequate care to the child, requiring that parental rights and responsibilities be awarded to a permanent guardian~~ able to assume or resume parental duties within a reasonable time.

(2) ~~Neither returning the child to the parents nor adoption of the child is likely within a reasonable period of time.~~

~~(3) The child is at least 12 years old unless the proposed permanent guardian is:~~

~~(A) a relative; or~~

~~(B) the permanent guardian of one of the child's siblings.~~

~~(4)~~ The child has resided with the permanent guardian for ~~at least a year or the permanent guardian is a relative with whom the child has a relationship and with whom the child has resided for~~ at least six months.

~~(5)~~(3) A permanent guardianship is in the best interests of the child.

~~(6)~~(4) The proposed permanent guardian:

(A)(i) is emotionally, mentally, and physically suitable to become the permanent guardian; and

(ii) is financially suitable, with kinship guardianship assistance provided for in 33 V.S.A. § 4903 if applicable, to become the permanent guardian;

(B) has expressly committed to remain the permanent guardian for the duration of the child's minority; and

(C) has expressly demonstrated a clear understanding of the financial implications of becoming a permanent guardian including an understanding of any resulting loss of ~~state~~ State or federal benefits or other assistance.

(b) The parent voluntarily may ~~voluntarily~~ consent to the permanent guardianship, and shall demonstrate an understanding of the implications and obligations of the consent.

(c) After the ~~family division of the superior court~~ Family Division of the Superior Court issues a final order establishing permanent guardianship, the case shall be transferred to the appropriate ~~probate division of the superior court~~ Probate Division of the Superior Court in the district in which the permanent guardian resides. Jurisdiction shall continue to lie in the ~~probate division~~ Probate Division. Appeal of any decision by the ~~probate division of the superior court~~ Probate Division of the Superior Court shall be de novo to the ~~family division~~ Family Division.

(d) The Family Division of the Superior Court may name a successor permanent guardian in the initial permanent guardianship order. In the event that the permanent guardian dies or the guardianship is terminated by the Probate Division of the Superior Court, if a successor guardian is named in the initial order, custody of the child transfers to the successor guardian pursuant to subsection 2666(b) of this title.

Sec. 2. 14 V.S.A. § 2665 is amended to read:

§ 2665. REPORTS

The permanent guardian shall file a written report on the status of the child to the ~~probate division of the superior court~~ Probate Division of the Superior Court annually pursuant to subdivision 2629(b)(6) of this title and at any other time the court may order. ~~The report shall include the following:~~

~~(1) The location of the child.~~

~~(2) The child's health and educational status.~~

~~(3) A financial accounting of the income, expenditures and assets of the child if the permanent guardian is receiving any state or federal government benefits for the child.~~

~~(4) Any other information regarding the child that the probate division of the superior court may require.~~

Sec. 3. 14 V.S.A. § 2666(b) is amended to read:

(b) Where the permanent guardianship is terminated by the ~~probate division of the superior court~~ Probate Division of the Superior Court order or the death of the permanent guardian, the custody and guardianship of the child shall not revert to the parent, but to the ~~commissioner for children and families~~ Commissioner for Children and Families as if the child had been abandoned. If a successor permanent guardian has been named in the initial permanent

guardianship order, custody shall transfer to the successor guardian, without reverting first to the Commissioner. The Probate Division of the Superior Court shall notify the Department when custody transfers to the Commissioner or the successor guardian.

Sec. 4. 33 V.S.A. § 5124 is amended to read:

§ 5124. POSTADOPTION CONTACT AGREEMENTS

(a) Either or both parents and each intended adoptive parent may enter into a postadoption contact agreement regarding communication or contact between either or both parents and the child after the finalization of an adoption by the intended adoptive parent or parents who are parties to the agreement. Such an agreement may be entered into if:

(1) the child is in the custody of:

(A) the Department for Children and Families; or

(B) a nonparent pursuant to subdivision 5318(a)(2) or (a)(7), or subdivision 5232(b)(2) or (b)(3) of this title;

(2) an order terminating parental rights has not yet been entered; and

(3) either or both parents agree to a voluntary termination of parental rights, including an agreement in a case which began as an involuntary termination of parental rights.

* * *

(c) A postadoption contact agreement must be in writing and signed by each parent and each intended adoptive parent entering into the agreement. There may be separate agreements for each parent. The agreement shall specify:

* * *

(9) an acknowledgment that ~~once the adoption is finalized, the court shall presume that the adoptive parent's judgment concerning the best interests of the child is correct~~ the adoptive parent's judgment regarding the child is in the child's best interests;

* * *

Sec. 5. 33 V.S.A. § 5318 is amended to read:

§ 5318. DISPOSITION ORDER

(a) Custody. At disposition, the Court shall make such orders related to legal custody for a child who has been found to be in need of care and

supervision as the Court determines are in the best interest of the child, including:

(1) An order continuing or returning legal custody to the custodial parent, guardian, or custodian. ~~Following disposition, the Court may issue a conditional custody order for a fixed period of time not to exceed two years. The Court shall schedule regular review hearings to determine whether the conditions continue to be necessary~~ The order may be subject to conditions and limitations.

(2) When the goal is reunification with a custodial parent, guardian, or custodian an order transferring temporary custody to a noncustodial parent, a relative, or a person with a significant relationship with the child. The order may provide for parent-child contact. ~~Following disposition, the Court may issue a conditional custody order for a fixed period of time not to exceed two years. The Court shall schedule regular review hearings to evaluate progress toward reunification and determine whether the conditions and continuing jurisdiction of the Family Division of the Superior Court are necessary.~~

(3) An order transferring legal custody to a noncustodial parent and closing the juvenile proceeding. The order may provide for parent-child contact with the other parent. Any orders transferring legal custody to a noncustodial parent issued under this section shall not be confidential and shall be made a part of the record in any existing parentage or divorce proceeding involving the child. On the motion of a party or on the Court's own motion, the Court may order that a sealed copy of the disposition case plan be made part of the record in a divorce or parentage proceeding involving the child.

(4) An order transferring legal custody to the Commissioner.

(5) An order terminating all rights and responsibilities of a parent by transferring legal custody and all residual parental rights to the Commissioner without limitation as to adoption.

(6) An order of permanent guardianship pursuant to 14 V.S.A. § 2664.

(7) An order transferring legal custody to a relative or another person with a significant relationship with the child. The order may be subject to conditions and limitations and may provide for parent-child contact with one or both parents. The order shall be subject to ~~periodic review as determined by the Court~~ review pursuant to subdivision 5320a(b) of this title.

* * *

(f) Conditions. Conditions shall include protective supervision with the Department if such a condition is not in place under the terms of an existing temporary care or conditional custody order. Protective supervision shall

remain in effect for the duration of the order to allow the Department to take reasonable steps to monitor compliance with the terms of the conditional custody order.

Sec. 6. 33 V.S.A. § 5320 is amended to read:

§ 5320. POSTDISPOSITION REVIEW HEARING

~~If the permanency goal of the disposition case plan is reunification with a parent, guardian, or custodian, the~~ The Court shall hold a review hearing within 60 days of the date of the disposition order for the purpose of monitoring progress under the disposition case plan and reviewing parent-child contact. Notice of the review shall be provided to all parties. A foster parent, preadoptive parent, ~~or~~ relative caregiver, or any custodian of the child shall be provided with notice of any post disposition review hearings and an opportunity to be heard at the hearings. Nothing in this section shall be construed as affording such person party status in the proceeding. This section shall not apply to cases where full custody has been returned to one or both parents unconditionally at disposition, or cases where the court has created a permanent guardianship at disposition. The Department shall, and any other party or caregiver may prepare a written report to the Court regarding progress under the plan of services from the disposition case plan.

Sec. 7. 33 V.S.A. § 5320a is added to read:

§ 5320a. DURATION OF CONDITIONAL CUSTODY ORDERS POSTDISPOSITION

(a) Conditional custody orders to parents. Whenever the court issues a conditional custody order transferring custody to a parent either at or following disposition, the presumptive duration of the order shall be no more than six months from the date of the disposition order or the conditional custody order, whichever occurs later, unless otherwise extended by the court after hearing. Prior to the termination of the order, any party may file a request to extend the order pursuant to subsection 5113(b) of this title. Upon such motion, the Court may extend the order for an additional period of time not to exceed six months. Prior to vacating the conditional custody order, the court may schedule a hearing on its own motion to review the case prior to discharging the conditions. If a motion to extend is not filed, the court shall issue an order vacating the conditions and transferring full custody to the parent without conditions.

(b)(1) Custody orders to nonparents. When the court at disposition issues an order continuing or transferring legal custody with a nonparent pursuant to subdivision 5318(a)(2) or (a)(7) of this title, the court shall set the matter for a hearing six months from the date of disposition or custody order whichever

occurs later. At the hearing, the court shall determine whether it is in the best interests of the child to:

(A) transfer either full or conditional custody of the child to a parent;

(B) establish a permanent guardianship pursuant to 14 V.S.A. § 2664 with the nonparent who has had custody of the child as the guardian; or

(C) terminate residual parental rights and release the child for adoption.

(2) If, after hearing, the court determines that reasonable progress has been made towards reunification and that reunification is in the best interests of the child but will require additional time, the court may extend the current order for a period not to exceed six months and set the matter for further hearing.

Sec. 8. 33 V.S.A. § 5125 is added to read:

§ 5125. REINSTATEMENT OF PARENTAL RIGHTS

(a) Petition for reinstatement.

(1) A petition for reinstatement of parental rights may be filed by the Department for Children and Families on behalf of a child in the custody of the Department under the following conditions:

(A) the child's adoption has been dissolved; or

(B) the child has not been adopted after at least three years from the date of the court order terminating parental rights.

(2) The child, if 14 years of age or older, may also file a petition to reinstate parental rights if the adoption has been dissolved, or if parental rights have been terminated and the child has not been adopted after three years from the date of the court order terminating parental rights. This section shall not apply to children who have been placed under permanent guardianship pursuant to 14 V.S.A. § 2664.

(b) Permanency plan. The Department shall file an updated permanency plan with the petition for reinstatement. The updated plan shall address the material change in circumstances since the termination of parental rights, the Department's efforts to achieve permanency, the reasons for the parent's desire to have rights reinstated, any statements by the child expressing the child's opinions about reinstatement, and parent's present ability and willingness to resume or assume parental duties.

(c) Hearing.

(1) The court shall hold a hearing to consider whether reinstatement is in the child's best interest. The court shall conditionally grant the petition if it finds by clear and convincing evidence that:

(A) the parent is presently willing and has the ability to provide for the child's present and future safety, care, protection, education, and healthy mental, physical, and social development;

(B) reinstatement is the child's express preference;

(C) if the child is 14 years of age or older and has filed the petition, that the child is of sufficient maturity to understand the nature of this decision;

(D) the child has not been adopted, or the adoption has been dissolved;

(E) the child is not likely to be adopted; and

(F) reinstatement of parental rights is in the best interests of the child.

(2) Upon a finding by clear and convincing evidence that all conditions set forth in subdivision (c)(1) exist and that reinstatement of parental rights is in the child's best interest, the court shall issue a conditional custody order for up to six months transferring temporary legal custody of the child to the parent, subject to conditions as the court may deem necessary and sufficient to ensure the child's safety and well-being. The court may order the Department to provide transition services to the family as appropriate. If during this time period the child is removed from the parent's temporary conditional custody due to allegations of abuse or neglect, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(d) Final order. After the child is placed with the parent for up to six months pursuant to subsection (c) of this section, the court shall hold a hearing to determine if the placement has been successful. The court shall enter a final order of reinstatement of parental rights upon a finding by preponderance of the evidence that placement continues to be in the child's best interest.

(e) Effect of reinstatement. Reinstatement of parental rights does not vacate or otherwise affect the validity of the original order terminating parental rights. Reinstatement restores a parent's legal rights to his or her child, including all rights, powers, privileges, immunities, duties, and obligations that were terminated by the court in the termination of parental rights order. Such reinstatement shall be a recognition that the parent's and child's situation have changed since the time of the termination of parental rights, and reunification is appropriate. An order reinstating the legal parent and child relationship as to one parent of the child has no effect on the legal rights of any other parent

whose rights to the child have been terminated by the court; or the legal sibling relationship between the child and any other children of the parent. A parent whose rights are reinstated pursuant to this section is not liable for child support owed to the Department during the period from termination of parental rights to reinstatement. The Department and its employees are not liable for civil damages resulting from any act or omission in providing services under this section unless the act or omission constitutes gross negligence.

Sec. 9. EFFECTIVE DATES

This act shall take effect on September 1, 2016, except for this section and Sec. 4 (postadoption contact agreements), which shall take effect on July 1, 2016.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 225.

Senator Degree, for the Committee on Transportation, to which was referred Senate bill entitled:

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

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Dealers * * *

Sec. 1. 23 V.S.A. § 4(8) is amended to read:

(8)(A)(i) "Dealer" means a person, partnership, corporation, or other entity engaged in the business of selling or exchanging new or used motor vehicles, snowmobiles, motorboats, or all-terrain vehicles. A dealer may, as part of or incidental to such business, repair such vehicles or motorboats, sell parts and accessories, or lease or rent such vehicles or motorboats. "Dealer" shall not include a finance or auction dealer or a transporter.

(ii)(I) For a dealer in new or used cars or motor trucks, "engaged in the business" means having sold or exchanged at least 12 cars or motor trucks, or a combination thereof, in the immediately preceding year, or 24 in the two immediately preceding years.

(II) For a dealer in snowmobiles, motorboats, or all-terrain vehicles, "engaged in the business" means having sold or exchanged at least

~~one snowmobile, motorboat, or all-terrain vehicle~~ six snowmobiles, motorboats, or all-terrain vehicles, respectively, in the immediately preceding year or ~~two~~ 12 in the two immediately preceding years.

(III) For a dealer in trailers, semi-trailers, or trailer coaches, "engaged in the business" means having sold or exchanged at least ~~one trailer, semi-trailer, or trailer each~~ six trailers, semi-trailers, or trailer coaches, in the immediately preceding year or a combination of ~~two~~ 12 such vehicles in the two immediately preceding years. However, the sale or exchange of a trailer with a gross vehicle weight rating of 3,500 pounds or less shall be excluded under this subdivision (8)(A)(ii)(III).

(IV) For a dealer in motorcycles or motor-driven cycles, "engaged in the business" means having sold or exchanged at least ~~one motorcycle or motor-driven cycle~~ six motorcycles or motor-driven cycles in the immediately preceding year or a combination of ~~two~~ 12 such vehicles in the two immediately preceding years.

* * *

Sec. 2. DEALER REGULATION REVIEW

(a) The Commissioner of Motor Vehicles shall review Vermont statutes, rules, and procedures regulating motor vehicle, snowmobile, motorboat, and all-terrain vehicle dealers, and review the regulation of such dealers by other states, to determine whether and how Vermont's regulation of dealers and associated motor vehicle laws should be amended to:

(1) enable vehicle and motorboat sales to thrive while protecting consumers from fraud or other illegal activities in the market for vehicles and motorboats; and

(2) protect the State's interest in collecting taxes, enforcing the law, and ensuring an orderly marketplace.

(b) In conducting his or her review, the Commissioner shall consult with new and used dealers or representatives of such dealers, or both, and other interested persons.

(c) The Commissioner shall review:

(1) required minimum hours and days of operation of dealers;

(2) physical location requirements of dealers;

(3) the required number of sales to qualify as a dealer and the types of sales and relationships among sellers that should count toward the sales threshold;

(4) the permitted uses of dealer plates;

(5) whether residents of other states should be allowed to register vehicles in Vermont;

(6) the effect any proposed change will have on fees and taxes that dealers collect and consumers pay;

(7) the effect any proposed changes will have on the ability of Vermont consumers and law enforcement to obtain information from a dealer selling vehicles or motorboats in Vermont; and

(8) other issues as may be necessary to accomplish the purpose of the review as described in subsection (a) of this section.

(d) On or before January 15, 2017, the Commissioner shall report his or her findings and recommendations to the Senate and House Committees on Transportation and submit proposed legislation as may be required to implement the recommendations.

* * * Motor-Assisted Bicycles * * *

Sec. 3. 23 V.S.A. § 4 is amended to read:

§ 4. DEFINITIONS

Except as may be otherwise provided herein, and unless the context otherwise requires in statutes relating to motor vehicles and enforcement of the law regulating vehicles, as provided in this title and 20 V.S.A. part 5, the following definitions shall apply:

* * *

(45)(A) "Motor-driven cycle" means any vehicle equipped with two or three wheels, a power source providing up to a maximum of two brake horsepower and having a maximum piston or rotor displacement of 50 cubic centimeters if a combustion engine is used, which will propel the vehicle, unassisted, at a speed not to exceed 30 miles per hour on a level road surface, and which is equipped with a power drive system that functions directly or automatically only, not requiring clutching or shifting by the operator after the drive system is engaged. As motor vehicles, motor-driven cycles shall be subject to the purchase and use tax imposed under 32 V.S.A. chapter 219 rather than to a general sales tax. ~~An~~ Neither an electric personal assistive mobility device nor a motor-assisted bicycle is ~~not~~ a motor-driven cycle.

(B) "Motor-assisted bicycle" means a bicycle or tricycle with fully operable pedals, that is equipped with a motor capable of generating a maximum power prescribed by the Commissioner or capable of producing a maximum top speed as prescribed by the Commissioner or both. Under

Vermont law, motor-assisted bicycles shall be governed as bicycles as prescribed in section 1136 of this title.

* * *

Sec. 4. 23 V.S.A. § 1136(d) is added to read:

(d) Motor-assisted bicycles shall be governed by Vermont laws applicable to bicycles, and operators of motor-assisted bicycles shall be subject to all of the rights and duties applicable to bicyclists under Vermont law. Motor-assisted bicycles shall be exempt from motor vehicle registration, licensing, and inspection requirements. Nothing in this subsection shall interfere with the existing right of municipalities to regulate the operation and use of motor-assisted bicycles in accordance with 24 V.S.A. § 2291(1) and (4).

* * * Nondriver Identifications Cards; Data Elements * * *

Sec. 5. 23 V.S.A. § 115 is amended to read:

§ 115. NONDRIVER IDENTIFICATION CARDS

* * *

(b) Every identification card shall expire, unless earlier canceled, on the fourth birthday of the applicant following the date of original issue, and may be renewed every four years upon payment of a ~~$20.00~~ $24.00 fee. At least 30 days before an identification card will expire, the Commissioner shall either mail first class to the cardholder or send the cardholder electronically an application to renew the identification card.

* * *

(i) An identification card issued under this subsection to an ~~individual under the age of 30 shall include a magnetic strip that includes only the name, date of birth, height, and weight of the individual identified on the card~~ initial or renewal applicant shall include data elements as prescribed in 6 C.F.R. § 37.19.

* * *

* * * Refund When Registration Plates Not Used * * *

Sec. 6. 23 V.S.A. § 327 is amended to read:

§ 327. REFUND WHEN PLATES NOT USED

Subject to the conditions set forth in subdivisions (1), (2), and (3) of this section, the Commissioner may cancel the registration of a motor vehicle, snowmobile, or motor boat when the owner returns the number plates, if any, ~~the validation sticker, if issued for that year,~~ and the registration certificate to the Commissioner. Upon cancellation of the registration, the Commissioner

shall notify the Commissioner of Finance and Management, who shall issue a refund as follows:

(1) For registrations ~~which are~~ cancelled prior to the beginning of the registration period, the refund is the full amount of the fee paid, less a fee of $5.00. ~~The validation stickers may be affixed to the plates.~~

(2) For registrations ~~which are~~ cancelled within 30 days of the date of issue, the refund is the full amount of the fee paid, less a charge of $5.00. The owner of a motor vehicle must prove to the Commissioner's satisfaction that the number plates have not been used or attached to a motor vehicle~~, or that the current validation sticker has not been affixed to the plate or to the snowmobile or motorboat~~.

(3) For registrations ~~which are~~ cancelled prior to the beginning of the second year of a two-year registration period, the refund is one-half of the full amount of the two-year fee paid, less a charge of $5.00. ~~The validation stickers may be affixed to the plates.~~

* * * Refunds of Overpayments * * *

Sec. 7. 23 V.S.A. § 381(e) is amended to read:

(e) Whenever a payment is received that is less than, but within $0.99 of, the required fee, the transaction shall be processed. The Commissioner may determine that action will not be taken to collect the missing portion of the fee. ~~When~~ Notwithstanding 32 V.S.A. § 509, when a payment up to ~~$1.00~~ $5.00 greater than the required fee is received, the excess shall not be refunded.

* * * Provisions Common to Registrations and Operator's Licenses * * *

Sec. 8. 23 V.S.A. § 208 is added to read:

§ 208. RECIPROCAL RECOGNITION OF NONRESIDENT REGISTRATIONS, LICENSES, AND PERMITS, FOREIGN VISITORS

As determined by the Commissioner, and consistent with section 601 of this title, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. However, these exemptions shall be operative only to the extent that under the laws of the foreign country or state of the owner's or operator's residence like exemptions and privileges are granted to owners of motor vehicles duly registered and to operators duly licensed or permitted under the laws of this State, except that if the owner or operator is a resident of a country not adjoining the United States, the exemptions shall be operative for a period of

not more than 30 days for vacation purposes even if the country does not grant like privileges to residents of this State.

Sec. 9. 23 V.S.A. § 411 is amended to read:

§ 411. ~~RECIPROCAL PROVISIONS~~

~~As determined by the Commissioner, a motor vehicle owned by a nonresident shall be considered as registered and a nonresident operator shall be considered as licensed or permitted in this State if the nonresident owner or operator has complied with the laws of the foreign country or state of his or her residence relative to the registration of motor vehicles and the granting of operators' licenses or learner's permits. Any exemptions provided in this section shall, however, be operative as to an owner or operator of a motor vehicle only to the extent that under the laws of the foreign country or state of his or her residence like exemptions and privileges are granted to operators duly licensed or permitted and to owners of motor vehicles duly registered under the laws of this State. If the owner or operator is a resident of a country not adjoining the United States, such exemptions shall be operative for a period of 30 days for vacation purposes, notwithstanding that such country does not grant like privileges to residents of this State.~~ [Repealed.]

* * * Operator's Licenses * * *

Sec. 10. 23 V.S.A. § 601 is amended to read:

§ 601. LICENSE REQUIRED

(a)(1) Except as otherwise provided by law, a resident shall not operate a motor vehicle on a highway in Vermont unless he or she holds a valid license issued by the State of Vermont. A new resident who has moved into the State from another jurisdiction and who holds a valid license to operate motor vehicles under section ~~411~~ 208 of this title shall procure a Vermont license within 60 days of moving to the State. Except as provided in subsection 603(d) of this title, licenses shall not be issued to nonresidents.

(2) In addition to any other requirement of law, a nonresident as defined in section 4 of this title shall not operate a motor vehicle on a Vermont highway unless:

(A) he or she holds a valid license or permit to operate a motor vehicle issued by another U.S. jurisdiction; ~~or~~

(B) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and operates for a period of not more than 30 days for vacation purposes; or

(C) he or she holds a valid license or permit to operate a motor vehicle from a jurisdiction outside the United States and:

(i) is 18 or more years of age, is lawfully present in the United States, and has been in the United States for less than one year;

(ii) the jurisdiction that issued the license is a party to the 1949 Convention on Road Traffic or the 1943 Convention on the Regulation of Inter-American Motor Vehicle Traffic; and

(iii) he or she possesses an international driving permit.

* * *

(c) At least 30 days before a license is scheduled to expire, the Commissioner shall either mail first class to the licensee or send the licensee electronically an application for renewal of the license. A person shall not operate a motor vehicle unless properly licensed.

* * *

Sec. 11. CONFORMING CHANGES

In 23 V.S.A. §§ 614 and 615, "section 411" is hereby replaced with "section 208."

* * * Special Examinations; Conforming Changes * * *

Sec. 12. 23 V.S.A. § 637 is amended to read:

§ 637. EXAMINERS OF PHYSICAL AND MENTAL CONDITIONS

The Commissioner may designate physicians, certified physician assistants, licensed advance practice registered nurses, ophthalmologists, oculists, and optometrists properly registered and authorized to practice in this State or in an adjoining state as examiners of operators. The Commissioner may refer any matter relative to the issuing, suspending, or reinstating of licenses ~~which concern~~ that concerns the physical or mental condition or eyesight of any applicant for or holder of a license or any petitioner for reinstatement to, and require the applicant or other person to be examined by, such examiner in the vicinity of the person's residence as he or she determines to be qualified to examine and report. Such examiner shall report to the Commissioner the true and actual result of examinations made by him or her together with his or her decision as to whether the person examined should be granted or allowed to retain an operator's license or permitted to operate a motor vehicle.

Sec. 13. 23 V.S.A. § 638 is amended to read:

§ 638. ~~DISSATISFACTION WITH PHYSICAL AND MENTAL EXAMINATION~~

~~If any person is dissatisfied with the result of an examination given by any one examiner, as provided in section 637 of this title, he or she may apply to the Commissioner for and shall be granted an examination by two physicians, ophthalmologists, oculists, or optometrists selected from a list of examiners approved by the Commissioner, and their decision shall be final. The Commissioner may designate the area of specialization from which the examiners are to be selected in each case, but in no event shall he or she limit the choice of an examiner to any one individual within the profession from which he or she is to be chosen.~~ [Repealed.]

Sec. 14. 23 V.S.A. § 639 is amended to read:

§ 639. FEES FOR PHYSICAL AND MENTAL EXAMINATIONS

The compensation of the examiners provided in ~~sections~~ section 637 ~~and 638~~ of this title shall be paid by the person examined.

* * * School Bus Operators * * *

Sec. 15. 23 V.S.A. § 1282(d) is amended to read:

(d)(1) ~~A~~ No less often than every two years, and before the start of a school year, a person licensed by the Department of Motor Vehicles to assume the duty of transporting school pupils in either a Type I or Type II school bus shall ~~annually before the commencement of the school year~~ furnish ~~his or her~~ the employer~~, where he or she is employed~~ who employs him or her as a school bus driver~~,~~ the following:

(A) a certificate signed by a licensed physician, ~~or~~ a certified physician assistant, or a nurse practitioner in accordance with written protocols, certifying that ~~he or she~~ the licensee is, as far as can be determined by reasonable inquiry and examination, mentally and physically competent to perform his or her duties~~,~~ and that he or she meets or exceeds the minimum hearing standards, based on voice testing, as prescribed by the Commissioner; and

(B) a certificate signed by a properly registered and authorized medical doctor, ophthalmologist, optometrist, or nurse practitioner certifying that he or she meets or exceeds the minimum vision standards as prescribed by the Commissioner.

(2) Upon receipt of a certificate required by this subsection which indicates that the school bus driver is not mentally or physically competent or

does not meet the minimum hearing or vision standards, the employer shall immediately notify the Commissioner.

(3) The certificates required under this subsection may be valid for up to two years from the examination.

* * * Overweight and Overdimension Vehicles * * *

Sec. 16. 23 V.S.A. § 1391a(d) is amended to read:

(d) Fines imposed for violations of this section shall be deposited in the Transportation Fund, unless the fines are the result of enforcement actions on a town highway by an enforcement officer employed by or under contract with the municipality, in which case the fine shall be paid to the municipality, except for ~~a $6.00~~ the administrative charge for each case authorized under 13 V.S.A. § 7251, which shall be retained by the State.

Sec. 17. 23 V.S.A. § 1400(d) is amended to read:

(d) ~~The Commissioner may enter into contracts with an electronic permitting service that will allow the service to issue single trip permits to a commercial motor vehicle operator, on behalf of the Department of Motor Vehicles. The permitting service shall be authorized to issue single trip permits for travel to and from a Vermont facility by commercial motor vehicles which are not greater than 72 feet in length on routes that have been approved by the Agency of Transportation. The permitting service may assess, collect, and retain an additional administrative fee which shall be paid by the commercial motor vehicle carrier.~~ [Repealed.]

* * * Motor Vehicle Titles * * *

Sec. 18. 23 V.S.A. § 2001 is amended to read:

§ 2001. DEFINITIONS

Except when the context otherwise requires, as used in this chapter:

* * *

(13) "Salvaged motor vehicle" means a motor vehicle which has been purchased or otherwise acquired as salvage; scrapped, dismantled, or destroyed~~,~~; or declared a total loss by an insurance company.

* * *

(17) "Salvage certificate of title" means a title that is stamped or otherwise branded to indicate that the vehicle described thereon is a salvaged motor vehicle ~~or has been scrapped, dismantled, destroyed, or declared a total loss by an insurance company, or both~~.

* * *

Sec. 19. 23 V.S.A. § 2019 is amended to read:

§ 2019. MAILING OR DELIVERING CERTIFICATE

The certificate of title shall be mailed or personally delivered, upon proper identification of the individual, to the first lienholder named in it or, if none, to the owner. However, a person is entitled to a personal delivery of only one title in a single day and of no more than three titles in a calendar month.

Sec. 20. 23 V.S.A. § 2091 is amended to read:

§ 2091. ~~DISMANTLING OR DESTRUCTION OF VEHICLE~~ SALVAGE CERTIFICATES OF TITLE; FORWARDING OF PLATES AND TITLES OF CRUSHED VEHICLES

(a) Except for vehicles for which no certificate of title is required pursuant to section 2012 of this title and for vehicles which are more than 15 years old, any person who purchases or in any manner acquires a vehicle as salvage; any person who scraps, dismantles, or destroys a motor vehicle~~,~~; or any insurance company or representative thereof who declares a motor vehicle to be a total loss, shall ~~make application~~ apply to the Commissioner for a salvage certificate of title within 15 days of the time the vehicle is purchased or otherwise acquired as salvage~~,~~; is scrapped, dismantled, or destroyed~~,~~; or is declared a total loss. However, an insurance company or representative thereof proceeding under subsection (c) of this section may apply outside this 15-day window to the extent necessary to comply with the requirements of that subsection.

(b) ~~The~~ Except as provided in subsection (c) of this section, the application shall be accompanied by:

(1) any certificate of title; and

(2) any other information or documents that the Commissioner may reasonably require to establish ownership of the vehicle and the existence or nonexistence of any security interest in the vehicle.

(c)(1) An insurer required to obtain a salvage certificate of title under this section for a vehicle declared a total loss, or a representative of the insurer, may obtain the title without satisfying the requirements of subsection (b) of this section if the application for the salvage certificate of title is accompanied by:

(A) the required fee;

(B) evidence that the insurer has made payment for the total loss of the vehicle, and evidence that the payment was made to any lienholder identified in the records of certificates of title of the Department and to the vehicle owner, if applicable; and

(C) a copy of the insurer's written request for the certificate of title sent at least 30 days prior to the application to the vehicle owner and to any lienholder identified in the records of certificates of title of the Department, proof that the request was sent by certified mail or was delivered by a courier service that provides proof of delivery, and copies of any responses from the vehicle owner or lienholder.

(2) If the Commissioner issues a salvage certificate of title to an eligible person under this subsection, the title shall be issued free and clear of all liens.

~~(b)~~(d) ~~When~~ Except for vehicles for which no certificate of title is required under this chapter, when a vehicle is destroyed by crushing for scrap, the person causing the destruction shall immediately mail or deliver to the Commissioner the certificate of title~~, if any,~~ endorsed "crushed" and signed by the person, accompanied by the original plate showing the original vehicle identification number. The plate shall not be removed until such time as the vehicle is crushed.

~~(c)~~(e) This section shall not apply to, and salvage certificates of title shall not be required for, unrecovered stolen vehicles or vehicles stolen and recovered in an undamaged condition, provided that the original vehicle identification number plate has not been removed, altered, or destroyed and the number thereon is identical with that on the original title certificate.

* * * Abandoned Motor Vehicles * * *

Sec. 21. 23 V.S.A. chapter 21, subchapter 7 is amended to read:

Subchapter 7. Abandoned Motor Vehicles

§ 2151. ~~ABANDONED MOTOR VEHICLES; DEFINED~~ DEFINITIONS

~~(a)(1) For the purposes of~~ As used in this subchapter~~, an "abandoned motor vehicle" means~~:

(1)(A) "Abandoned motor vehicle" means:

(i) a motor vehicle that has remained on public or private property or on or along a highway for more than 48 hours without the consent of the owner or person in control of the property ~~for more than 48 hours~~, and has a valid registration plate or public vehicle identification number which has not been removed, destroyed, or altered; or

~~(B)~~(ii) a motor vehicle that has remained on public or private property or on or along a highway without the consent of the owner or person in control of the property for any period of time if the vehicle does not have a valid registration plate or the public vehicle identification number has been removed, destroyed, or altered.

(B) "Abandoned motor vehicle" does not include a vehicle or other equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which is left in a manner which does not interfere with the normal movement of traffic.

(2) "Landowner" means a person who owns or leases or otherwise has authority to control use of real property.

(3) ~~For purposes of this subsection, "public~~ "Public vehicle identification number" means the public vehicle identification number which is usually visible through the windshield and attached to the driver's side of the dashboard, instrument panel, or windshield pillar post or on the doorjamb on the driver's side of the vehicle.

~~(b) Construction equipment. A vehicle or other equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which is left in a manner which does not interfere with the normal movement of traffic, shall not be considered to be an abandoned motor vehicle.~~

§ 2152. AUTHORIZED REMOVAL OF ABANDONED MOTOR VEHICLES

(a) Public property. A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from public property, and may contact a towing service for its removal ~~of such motor vehicle~~, based upon personal observation by the officer that the vehicle is an abandoned motor vehicle.

(b) Private property.

(1) A law enforcement officer is authorized to remove or cause removal of an abandoned motor vehicle from private property, and may contact a towing service for its removal ~~from private property of such vehicle~~, based upon ~~complaint of the owner or agent of the property~~ the request of the landowner on ~~which~~ whose property the vehicle is located ~~that the~~ and information indicating that the vehicle is an abandoned motor vehicle.

(2) ~~An owner or agent of an owner~~ A landowner of private property is authorized to remove or cause removal of an abandoned motor vehicle from that property or to any other place on any property of the landowner, and may

contact a towing service for its removal ~~from that property of an abandoned vehicle~~. ~~If an owner or agent of an owner~~ A landowner who removes or causes removal of an abandoned motor vehicle~~, the owner or agent~~ shall immediately notify the police agency in the jurisdiction from which the vehicle is removed~~.~~ ~~Notification shall include identification of~~ and provide the registration plate number, the public vehicle identification number, if available, and the make, model, and color of the vehicle. The ~~owner or agent of an owner of property upon which a motor vehicle is abandoned~~ landowner may remove the vehicle from the place where it is discovered to any other place on any property owned by him or her, or cause the vehicle to be removed by a towing service under the provisions of this subsection, without incurring any civil liability to the owner of the abandoned vehicle.

§ 2153. ABANDONED MOTOR VEHICLE CERTIFICATION

(a) ~~Within 30 days of removal of the vehicle, a towing service which has removed an abandoned motor vehicle~~ A landowner on whose property an abandoned motor vehicle is located shall apply to the Department for an abandoned motor vehicle certification on forms supplied by the Department ~~of Motor Vehicles~~ within 30 days of the date the vehicle was discovered on or brought to the property unless the vehicle has been removed from the property. An abandoned motor vehicle certification form shall indicate the date ~~of removal,~~ that the abandoned motor vehicle was discovered or brought to the property; the make, color, model, and location ~~found, and~~ of the vehicle; the name, address, and ~~phone~~ telephone number of the ~~towing service,~~ landowner; and a certification of the public vehicle identification number, if any, to be recorded by a law enforcement officer. This subsection shall not be construed as creating a private right of action against the landowner.

(b) Upon receipt of an abandoned motor vehicle certification form, the Commissioner ~~of Motor Vehicles~~ shall attempt to identify and notify the owner of the vehicle as required by section 2154 of this title. If no owner can be determined by the Commissioner within the time period allowed by section 2154 of this title, the Commissioner shall issue a certificate of abandoned motor vehicle with appropriate title or salvage title, or both, and the vehicle may be disposed of in the manner set forth in section 2156 of this title.

§ 2154. IDENTIFICATION AND RECLAMATION OF ABANDONED MOTOR VEHICLES

(a) The Department ~~of Motor Vehicles~~ shall make a reasonable attempt to locate an owner of an abandoned motor vehicle.

(1) If the abandoned motor vehicle is not identifiable by its registration plates or public vehicle identification number, and if no owner can be determined within 21 days of the date of receipt of the abandoned motor

vehicle certification form, the Commissioner ~~of Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with an appropriate title or salvage title.

(2) If the abandoned motor vehicle is identifiable by its registration plates or public vehicle identification number, the Department ~~of Motor Vehicles~~ shall, within three business days of receipt of the form for certification of abandoned motor vehicle, send notice to the last known registered owner and lienholder of the vehicle. The notice shall be sent by certified mail, return receipt requested, and shall advise the last known registered owner of the motor vehicle's location and a telephone number where additional information about the motor vehicle may be obtained. If the receipt is not returned to the Department within seven business days, the Commissioner shall, by first class mail, send a second notice. Within 21 days of sending the second notice, the last known registered owner or lienholder may reclaim and retrieve the motor vehicle by presenting to the Department ~~of Motor Vehicles~~ satisfactory evidence of ownership, and paying or arranging to pay any fees or charges authorized by section 2155 of this title. If the last known registered owner or lienholder fails or refuses to reclaim the motor vehicle within 21 days of the second mailing, the Commissioner ~~of Motor Vehicles~~ shall issue a certificate of abandoned motor vehicle with appropriate title or a license to any person whenever he or she is satisfied from information given him or her by credible persons, and upon investigation, that the person is mentally or physically unfit, or because of his or her habits, or record as to accidents or convictions, is unsafe to be trusted with the operation of motor vehicles. A person refused a license~~,~~ under the provisions of this subsection ~~or section 605 of this title,~~ shall be entitled to hearing as provided in sections 105–107 of this title.

Sec. 25. 18 V.S.A. § 1772(13) is amended to read:

(13) "Motor vehicle" means ~~every vehicle intended primarily for use and operation on the public highways and shall include snowmobiles, all-terrain~~ salvage title.

(b) An owner or lienholder may reclaim an abandoned motor vehicle by presenting to the Department ~~of Motor Vehicles~~ satisfactory evidence of ownership, and paying or reimbursing, or making arrangements to pay or reimburse, the towing agency, the Department ~~of Motor Vehicles~~, or the ~~owner or agent of private property~~ landowner, as the case may be, any towing fee or storage charges permitted under section 2155 of this title.

§ 2155. FEES AND CHARGES

(a) Towing fees. For towing an abandoned motor vehicle from private property, a towing service may charge a reasonable fee to be paid by the vehicle owner or ~~agent of the owner~~ landowner of the private property.

(b) Storage charges. In addition to any towing fee, an owner or lienholder reclaiming an abandoned motor vehicle may be charged and shall pay a fee for the costs of storage of the vehicle, except that no fee may be charged for storage for any period preceding the date upon which the form for abandoned motor vehicle certification is sent ~~by the towing service~~ to the Department ~~of Motor Vehicles~~.

* * *

* * * Repeals and Conforming Change * * *

Sec. 22. REPEALS

The following sections are repealed:

(1) 23 V.S.A. § 366 (log-haulers; registration).

(2) 23 V.S.A. § 382 (diesel-powered pleasure cars; registration).

(3) 23 V.S.A. § 423 (negotiating and entering into an interstate compact regarding truck license fees).

(4) 23 V.S.A. § 605 (unsatisfied judgment; suspension).

Sec. 23. 23 V.S.A. § 369 is amended to read:

§ 369. TRACTORS OTHER THAN FARM TRACTORS

The annual fee for registration of a tractor, except ~~log-haulers on snow roads and~~ farm tractors as otherwise provided in this chapter, shall be based on the actual weight of such tractor at the same rate as that provided for trucks of like weight under the provisions of this chapter. The minimum fee for registering any tractor shall be $20.00.

Sec. 24. 23 V.S.A. § 603(a)(2) is amended to read:

(2) The Commissioner may, however, in his or her discretion, refuse to issue ~~vehicles, and farm tractors and other machinery used in the production, harvesting, and care of farm products~~ all vehicles propelled or drawn by power other than muscular power, including snowmobiles, motorcycles, all-terrain vehicles, farm tractors, vehicles running only upon stationary rails or tracks, motorized highway building equipment, road making appliances, or tracked vehicles or electric personal assistive mobility devices.

* * * Effective Dates * * *

Sec. 26. EFFECTIVE DATES

(a) This section and Sec. 25 shall take effect on passage.

(b) All other sections shall take effect on July 1, 2016.

And that when so amended the bill ought to pass.

Senator Mullin, for the Committee on Finance, to which the bill was referred, reported that the bill ought to pass when amended as recommended by the Committee on Transportation.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 255.

Senator Lyons, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to regulation of hospitals, health insurers, and managed care organizations.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 18 V.S.A. § 9405a is amended to read:

§ 9405a. PUBLIC PARTICIPATION AND STRATEGIC PLANNING

(a) Each hospital shall have a protocol for meaningful public participation in its strategic planning process for identifying and addressing health care needs that the hospital provides or could provide in its service area. Needs identified through the process shall be integrated with the hospital's long-term planning. ~~The process shall be updated as necessary to continue to be consistent with such planning and capital expenditure projections, and identified needs shall be summarized in the hospital's community report.~~ Each hospital shall post on its website a description of its identified needs, strategic initiatives developed to address the identified needs, annual progress on implementation of the proposed initiatives, and opportunities for public participation. Hospitals may meet the community health needs assessment and implementation plan requirement through compliance with the relevant Internal Revenue Service community health needs assessment requirements for nonprofit hospitals.

(b) When a hospital is working on a new community health needs assessment, the hospital shall post on its website information about the process for developing the community needs assessment and opportunities for public participation in the process.

Sec. 2. 18 V.S.A. § 9405b is amended to read:

§ 9405b. HOSPITAL COMMUNITY REPORTS

(a) The Commissioner of Health, in consultation with representatives from hospitals, other groups of health care professionals, and members of the public representing patient interests, shall adopt rules establishing a ~~standard format for community reports, as well as the contents, which~~ statewide comparative hospital quality report. Hospitals located outside this State which serve a significant number of Vermont residents, as determined by the Commissioner of Health, shall be invited to participate in the community report process established by this section. The report shall include:

(1) Measures of quality, including process and performance measures, that are valid, reliable, and useful, including comparisons to appropriate national benchmarks for high quality and successful results.

(2) Measures of patient safety that are valid, reliable, and useful, including comparisons to appropriate industry benchmarks for safety~~;~~.

(3) Measures of hospital-acquired infections that are valid, reliable, and useful, including comparisons to appropriate industry benchmarks.

(4) Valid, reliable, and useful information on nurse staffing, including comparisons to appropriate industry benchmarks for safety. This information may include system-centered measures such as skill mix, nursing care hours per patient day, and other system-centered measures for which reliable industry benchmarks become available.

(5) Measures of the hospital's financial health, including comparisons to appropriate national benchmarks for efficient operation and fiscal health.

~~(5)~~(6) A summary of the hospital's budget, including revenue by source, the one-year and four-year capital expenditure plans, the depreciation schedule for existing facilities, and quantification of cost shifting to private payers.

~~(6)~~(7) Data that provides valid, reliable, useful, and efficient information for payers and the public for the comparison of charges for higher volume health care services.

(b) Each hospital shall publish on its website:

~~(7)~~(1) ~~The~~ the hospital's process for achieving openness, inclusiveness, and meaningful public participation in its strategic planning and ~~decision-making.~~ decisionmaking;

~~(8)~~(2) ~~The~~ the hospital's consumer complaint resolution process, including identification of the hospital officer or employee responsible for its implementation~~.~~;

~~(9) Information concerning recently completed or ongoing quality improvement and patient safety projects.~~

~~(10) A description of strategic initiatives discussed with or derived from the identification of health care needs; the one-year and four-year capital expenditure plans; and the depreciation schedule for existing facilities.~~

~~(11)~~(3) ~~Information~~ information on membership and governing body qualifications, a listing of the current governing body members, and means of obtaining a schedule of meetings of the hospital's governing body, including times scheduled for public participation; and

(4) a link to the comparative statewide hospital quality report.

~~(12) Valid, reliable, and useful information on nurse staffing, including comparisons to appropriate industry benchmarks for safety. This information may include system-centered performance measures, such as skill mix, nursing care hours per patient day, and other such system-centered performance measures as reliable industry benchmarks become available in the future.~~

~~(b) On or before January 1, 2005, and annually thereafter beginning on June 1, 2006, the board of directors or other governing body of each hospital licensed under chapter 43 of this title shall publish on its website, making paper copies available upon request, its community report in a uniform format approved by the Commissioner of Health and in accordance with the standards and procedures adopted by rule under this section. Hospitals located outside this State which serve a significant number of Vermont residents, as determined by the Commissioner of Health, shall be invited to participate in the community report process established by this subsection.~~

(c) ~~The community reports shall be provided to the Commissioner of Health.~~ The Commissioner of Health shall publish the ~~reports~~ statewide comparative hospital quality report on a public website and shall ~~develop and include a format for comparisons of hospitals within the same categories of quality and financial measures~~ update the report at least annually beginning on June 1, 2017.

Sec. 3. 18 V.S.A. § 9408a is amended to read:

§ 9408a. UNIFORM PROVIDER CREDENTIALING

* * *

(e) ~~The commissioner may enforce compliance with the provisions of this section as to insurers and as to hospitals as if the hospital were an insurer under 8 V.S.A. § 3661.~~ [Repealed.]

* * *

Sec. 4. 18 V.S.A. § 1905 is amended to read:

§ 1905. LICENSE REQUIREMENTS

Upon receipt of an application for license and the license fee, the licensing agency shall issue a license when it determines that the applicant and hospital facilities meet the following minimum standards:

* * *

(5) All patients admitted to the hospital shall be under the care of a ~~state~~ State registered and licensed practicing physician as defined by the laws of the State of Vermont. All hospitals shall use the uniform credentialing application form described in subsection 9408a(b) of this title.

* * *

Sec. 5. 18 V.S.A. § 9409 is amended to read:

§ 9409. HEALTH CARE PROVIDER BARGAINING GROUPS

(a) The ~~commissioner~~ Green Mountain Care Board may approve the creation of one or more health care provider bargaining groups, consisting of health care providers who choose to participate. A bargaining group is authorized to negotiate on behalf of all participating providers with the ~~commissioner, the secretary of administration, the secretary of human services, the Green Mountain Care board, or the commissioner of labor~~ Secretary of Administration, the Secretary of Human Services, the Green Mountain Care Board, or the Commissioner of Labor with respect to any matter in this chapter; chapter 13, 219, 220, or 222 of this title; 21 V.S.A. chapter 9; and 33 V.S.A. chapters 18 and 19 with respect to provider regulation, provider reimbursement, administrative simplification, information technology, workforce planning, or quality of health care.

(b) The ~~commissioner~~ Green Mountain Care Board shall adopt by rule criteria for forming and approving bargaining groups, and criteria and procedures for negotiations authorized by this section.

(c) The rules relating to negotiations shall include a nonbinding arbitration process to assist in the resolution of disputes. Nothing in this section shall be construed to limit the authority of the ~~commissioner, the commissioner of labor, the secretary of administration, the Green Mountain Care board, or the secretary of human services~~ Secretary of Administration, the Secretary of Human Services, the Green Mountain Care Board, or the Commissioner of Labor to reject the recommendation or decision of the arbiter.

Sec. 6. HEALTH CARE PROVIDER BARGAINING GROUP; RULEMAKING

For the purposes of regulating health care provider bargaining groups pursuant to 18 V.S.A. § 9409, the Green Mountain Care Board shall apply Rule 6.00 of the Department of Financial Regulation, as that rule exists on the effective date of this section, until the Board's adoption of a permanent rule on provider bargaining groups pursuant to Sec. 5 of this act.

Sec. 7. 18 V.S.A. § 9414 is amended to read:

§ 9414. QUALITY ASSURANCE FOR MANAGED CARE

(a) The Commissioner shall have the power and responsibility to ensure that each managed care organization provides quality health care to its members, in accordance with the provisions of this section.

(1) In determining whether a managed care organization meets the requirements of this section, the Commissioner ~~shall~~ may review and examine, in accordance with subsection (e) of this section, the organization's administrative policies and procedures, quality management and improvement procedures, utilization management, credentialing practices, members' rights and responsibilities, preventive health services, medical records practices, grievance and appeal procedures, member services, financial incentives or disincentives, disenrollment, provider contracting, and systems and data reporting capacities. The Commissioner ~~may~~ shall establish, by rule, specific criteria to be considered under this section.

* * *

(4) The Commissioner or designee may resolve any consumer or provider complaint arising out of this subsection as though the managed care organization were an insurer licensed pursuant to Title 8. As used in this section, "complaint" means a report of a violation or suspected violation of the standards set forth in this section or adopted by rule pursuant to this section and made by or on behalf of a consumer or provider.

(5) The Commissioner shall prepare an annual report on or before July 1 of each year providing the number of complaints received during the previous calendar year regarding violations or suspected violations of the standards set forth in this section or adopted by rule pursuant to this section. The report shall specify the aggregate number of complaints related to each standard and shall be posted on the Department's website.

(b)(1) A managed care organization shall assure that the health care services provided to members are consistent with prevailing professionally recognized standards of medical practice.

(2) A managed care organization shall participate in ~~establish a chronic care program as needed to implement~~ the Blueprint for Health established in chapter 13 of this title. ~~The program~~ If needed to implement the Blueprint, a managed care organization shall establish a chronic care program, which shall include:

(A) appropriate benefit plan design;

(B) informational materials, training, and follow-up necessary to support members and providers; and

(C) payment reform methodologies.

(3) Each managed care organization shall have procedures to assure availability, accessibility, and continuity of care, and ongoing procedures for the identification, evaluation, resolution, and follow-up of potential and actual problems in its health care administration and delivery.

(4) Each managed care organization shall be accredited by a national independent accreditation organization approved by the Commissioner.

(c) ~~The~~ Consistent with participation in the Blueprint for Health pursuant to subdivision (b)(2) of this section and the accreditation required by subdivision (b)(4) of this section, the managed care organization shall have an internal quality assurance program to monitor and evaluate its health care services, including primary and specialist physician services, and ancillary and preventive health care services, across all institutional and noninstitutional settings. The internal quality assurance program shall be fully described in written form, provided to all managers, providers, and staff and made available to members of the organization. The components of the internal quality assurance program shall include~~, but not be limited to,~~ the following:

(1) a peer review committee or comparable designated committee responsible for quality assurance activities;

(2) accountability of the committee to the Board of Directors or other governing authority of the organization;

(3) participation by an appropriate base of providers and support staff;

(4) supervision by the medical director of the organization;

(5) regularly scheduled meetings; and

(6) minutes or records of the meetings which describe in detail the actions of the committee, including problems discussed, charts reviewed, recommendations made, and any other pertinent information.

(d)~~(1) In addition to its internal quality assurance program, each managed care organization shall evaluate the quality of health and medical care provided~~

~~to members. The organization shall use and maintain a patient record system which will facilitate documentation and retrieval of statistically meaningful clinical information.~~

~~(2) A managed care organization may evaluate the quality of health and medical care provided to members through an independent accreditation organization.~~ [Repealed.]

* * *

Sec. 8. 18 V.S.A. § 9414a is amended to read:

§ 9414a. ANNUAL REPORTING BY HEALTH INSURERS

(a) As used in this section:

(1) "Adverse benefit determination" means a denial, reduction, modification, or termination of, or a failure to provide or make payment in whole or in part for, a benefit, including:

(A) a denial, reduction, modification, termination, or failure to provide or make payment that is based on a determination of the member's eligibility to participate in a health benefit plan;

(B) a denial, reduction, modification, or termination of, or failure to make payment in whole or in part for, a benefit resulting from the application of any utilization review; and

(C) a failure to provide coverage for an item or service for which benefits are otherwise provided because the item or service is determined to be experimental, investigational, or not medically necessary or appropriate.

(2) "Claim" means a pre-service review or a request for payment for a covered service that a member or the member's health care provider submits to the insurer at or after the time that health care services have been provided.

(3) "Concurrent review" means utilization review conducted during a member's stay in a hospital or other facility, or during another ongoing course of treatment.

(4) "Grievance" means a complaint submitted by or on behalf of a member regarding:

(A) an adverse benefit determination;

(B) the availability, delivery, or quality of health care services;

(C) claims payment, handling, or reimbursement for health care services; or

(D) matters relating to the contractual relationship between a member and the managed care organization or health insurer offering the health benefit plan.

(5) "Independent external review" means a review of a health care decision by an independent review organization pursuant to 8 V.S.A. § 4089f.

(6) "Post-service review" means the review of any claim for a benefit that is not a pre-service or concurrent review.

(7) "Pre-service review" means the review of any claim for a benefit with respect to which the terms of coverage condition receipt of the benefit in whole or in part on approval of the benefit in advance of obtaining health care.

(8) "Utilization review" means a set of formal techniques designed to monitor the use, or evaluate the clinical necessity, appropriateness, efficacy, or efficiency, of health care services, procedures, or settings, including prescription drugs.

(b) Health insurers with a minimum of 2,000 Vermont lives covered at the end of the preceding year or who offer insurance through the Vermont Health Benefit Exchange pursuant to 33 V.S.A. chapter 18, subchapter 1 shall annually report the following information to the Commissioner of Financial Regulation, in plain language, as an addendum to the health insurer's annual statement:

(1) the health insurer's state of domicile and the total number of states in which the insurer operates;

(2) the total number of Vermont lives covered by the health insurer;

(3) the total number of claims submitted to the health insurer;

(4) the total number of claims denied by the health insurer, including the total number of denied claims for mental health services, treatment for substance use disorder, and prescription drugs;

(5) data regarding the number and percentage of denials of service by the health insurer ~~at the preauthorization level,~~ based on utilization review, including utilization review at the pre-service review, concurrent review, and post-service review levels and including denials of mental health services, services for substance use disorder, and prescription drugs broken out separately, including:

(A) ~~the total number of~~ denials of service by the health insurer ~~at the preauthorization level~~;

(B) ~~the total number of~~ denials of service ~~at the preauthorization level~~ appealed to the health insurer at the first-level grievance and, of those, the total number overturned;

(C) ~~the total number of~~ denials of service ~~at the preauthorization level~~ appealed to the health insurer at any second-level grievance and, of those, the total number overturned;

(D) ~~the total number of~~ denials of service at the ~~preauthorization~~ pre-service level for which external review was sought and, of those, the total number overturned;

(6) the total number of adverse benefit determinations made by the health insurer, including:

(A) the total number of adverse benefit determinations appealed to the health insurer at the first-level grievance and, of those, the total number overturned;

(B) the total number of adverse benefit determinations appealed to the health insurer at any second-level grievance and, of those, the total number overturned;

(C) the total number of adverse benefit determinations for which external review was sought and, of those, the total number overturned;

(7) ~~the total number of claims denied by the health insurer because the service was experimental, investigational, or an off-label use of a drug, was not medically necessary, involved access to a provider that is inconsistent with the limitations imposed by the plan, or was subject to a preexisting condition exclusion;~~ [Repealed.]

(8) the total number of claims denied by the health insurer as duplicate claims, as coding errors, or for services or providers not covered;

(9) the percentage of claims processed in a timely manner;

(10) the percentage of claims processed accurately, both financially and administratively;

(11) the number and percentage of utilization review decisions meeting the timelines described in subdivisions (A)–(D) of this subdivision (11), including timeliness data for all utilization review decisions and timeliness data for physical health, mental health, substance use disorder, and prescription drug utilization review decisions broken out separately:

(A) concurrent reviews within 24 hours;

(B) urgent pre-service reviews within 48 hours of receipt of the request;

(C) non-urgent pre-service reviews within two business days of receipt of request; and

(D) post-service reviews within 30 days of receipt of request;

(12) data regarding the number of grievances related to availability, delivery, or quality of health care services or matters relating to the contractual relationship between a member and the health insurer, including:

(A) health care provider performance and office management issues;

(B) plan administration;

(C) access to health care providers and services;

(D) access to mental health providers and services; and

(E) access to substance use disorder providers and services;

(13) the total number of claims, including separate numbers for claims related to mental health services, services for substance use disorder, and prescription drugs, denied by the health insurer on the grounds that the service was experimental, investigations, or an off-label use of a drug; was not medically necessary; or involved access to a provider that is inconsistent with the limitations imposed by the plan;

(14) results of surveys evaluating health care provider satisfaction with the health insurer;

(15) the health insurer's actions taken in response to the prior year's health care provider survey results;

(16)(A) the titles and salaries of all corporate officers and board members during the preceding year; and

(B) the bonuses and compensatory benefits of all corporate officers and board members during the preceding year;

~~(10)~~(17) the health insurer's marketing and advertising expenses during the preceding year;

~~(11)~~(18) the health insurer's federal and Vermont-specific lobbying expenses during the preceding year;

~~(12)~~(19) the amount and recipient of each political contribution made by the health insurer during the preceding year;

~~(13)~~(20) the amount and recipient of dues paid during the preceding year by the health insurer to trade groups that engage in lobbying efforts or that make political contributions;

~~(14)~~(21) the health insurer's legal expenses related to claims or service denials during the preceding year; and

~~(15)~~(22) the amount and recipient of charitable contributions made by the health insurer during the preceding year.

~~(b)~~(c) Health insurers may indicate the extent of overlap or duplication in reporting the information described in subsection ~~(a)~~(b) of this section.

~~(c)~~(d) The Department of Financial Regulation shall create a standardized form using terms with uniform, industry-standard meanings for the purpose of collecting the information described in subsection ~~(a)~~(b) of this section, and each health insurer shall use the standardized form for reporting the required information as an addendum to its annual statement. To the extent possible, health insurers shall report information specific to Vermont on the standardized form and shall indicate on the form where the reported information is not specific to Vermont.

~~(d)~~(e)(1) The Department of Financial Regulation and the Office of the Health Care Advocate shall post on ~~its website~~ their websites links to the standardized form completed by each health insurer pursuant to this section. Each health insurer shall post its form on its own website.

(2) The Department of Vermont Health Access shall post on the Vermont Health Benefit Exchange established pursuant to 33 V.S.A. chapter 18, subchapter 1 an electronic link to the standardized forms posted by the Department of Financial Regulation pursuant to subdivision (1) of this subsection.

~~(e)~~(f) The Commissioner of Financial Regulation may adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the purposes of this section.

Sec. 9. 18 V.S.A. § 1854(a) is amended to read:

(a) A hospital shall make public the maximum patient census and the number of registered nurses, licensed practical nurses, and licensed nursing assistants providing direct patient care in each unit during each shift. Each unit's information shall be reported in full-time equivalents, with either every eight hours or 12 hours worked by a registered nurse, licensed practical nurse, or licensed nursing assistant during the shift as one full-time equivalent. The reporting of this information shall be in a manner consistent with the requirements for public reporting for measures of nurse staffing selected by the ~~commissioner of financial regulation~~ Commissioner of Health under subdivision ~~9405b(a)(12)~~ 9405b(a)(4) of this title, but shall not in any way change what is required to be posted as set forth in this subsection. Each unit's information shall be posted in a prominent place that is readily accessible to

patients and visitors in that unit at least once each day. The posting shall include the information for the preceding seven days.

Sec. 10. RECOMMENDATIONS FOR POTENTIAL ALIGNMENT

The Director of Health Care Reform in the Agency of Administration, in collaboration with the Green Mountain Care Board and the Department of Financial Regulation, shall compare the requirements in federal law applicable to Vermont's accountable care organizations and to the Department of Vermont Health Access in its role as a public managed care organization with the provisions of 18 V.S.A. § 9414(a)(1) as they apply to managed care organizations to identify opportunities for alignment. The Director of Health Care Reform shall consult with interested stakeholders, including accountable care organizations; health insurance and managed care organizations, as defined in 18 V.S.A. § 9402; health care providers; and the Office of the Health Care Advocate, shall take into consideration the financial and operational implications of alignment, and shall make recommendations on or before December 15, 2017 to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance on appropriate ways to improve alignment.

Sec. 11. EFFECTIVE DATES

(a) Secs. 1 (hospital needs assessment) and 2 (hospital community reports) and this section shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2016.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Message from the House No. 32

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 112. An act relating to access to financial records in adult protective services investigations.

H. 517. An act relating to the classification of State waters.

H. 526. An act relating to the Commissioner of Liquor Control and the Liquor Control Board.

H. 674. An act relating to public notice of wastewater discharges.

H. 747. An act relating to the State Treasurer's authority to intercept State funding to a municipality or school district in default from a Municipal Bond Bank borrowing.

H. 778. An act relating to State enforcement of the federal Food Safety Modernization Act.

In the passage of which the concurrence of the Senate is requested.

The House has adopted joint resolution of the following title:

J.R.H. 23. Joint resolution authorizing Green Mountain Boys State educational program to use the State House.

In the adoption of which the concurrence of the Senate is requested.

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 262. House concurrent resolution honoring St. Lawrence University Director of Athletic Media Relations Walter H. Johnson.

H.C.R. 263. House concurrent resolution honoring Poultney Selectboard Chair Edward Lewis for his exemplary community leadership in the Town of Poultney and in Addison and Rutland counties.

H.C.R. 264. House concurrent resolution honoring Vermont State employees for their exemplary public service.

H.C.R. 265. House concurrent resolution honoring Essex Municipal Manager Patrick C. Scheidel for his quarter-century of dedicated public service.

H.C.R. 266. House concurrent resolution in memory of North Bennington civic leader Robert James McWaters.

H.C.R. 267. House concurrent resolution honoring David Michael Green for his community service in Massachusetts and Vermont and, especially, in the towns of Barnard and Woodstock.

H.C.R. 268. House concurrent resolution honoring Barnard Selectboard Chair Thomas R. Morse for his civic leadership.

H.C.R. 269. House concurrent resolution honoring Tinmouth's civic-minded citizen, Hollis G. Squier.

H.C.R. 270. House concurrent resolution in memory of West Rutland Selectboard member Peter Bianchi.

H.C.R. 271. House concurrent resolution congratulating the 2016 St. Johnsbury Academy State championship girls' indoor track team.

H.C.R. 272. House concurrent resolution congratulating Brian Kasten on winning the 2016 International Bowhunting Organization 3D Indoor World Championship.

H.C.R. 273. House concurrent resolution designating March 10, 2016 as Multiple Sclerosis Awareness Day in Vermont.

H.C.R. 274. House concurrent resolution honoring Stephen Stearns for his artistic and community contributions at the New England Youth Theatre.

H.C.R. 275. House concurrent resolution congratulating Agron and Irena Gerdhuqi on the tenth anniversary of Olympic Pizza in Rutland City.

H.C.R. 276. House concurrent resolution commemorating the 70th anniversary of the Vermont Air National Guard.

H.C.R. 277. House concurrent resolution congratulating the 2015 Proctor High School Phantoms Division IV championship boys' soccer team.

H.C.R. 278. House concurrent resolution congratulating the Proctor High School Division IV 2015 championship girls' soccer team.

In the adoption of which the concurrence of the Senate is requested.

The House has considered concurrent resolution originating in the Senate of the following title:

S.C.R. 39. Senate concurrent resolution congratulating the Rutland Garden Club on its centennial anniversary.

And has adopted the same in concurrence.

Senate Concurrent Resolution

The following joint concurrent resolution, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, was adopted on the part of the Senate:

By Senators Mullin, Collamore and Flory,

By Representative Burditt and others,

S.C.R. 39.

Senate concurrent resolution congratulating the Rutland Garden Club on its centennial anniversary.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Representative Parent,

H.C.R. 262.

House concurrent resolution honoring St. Lawrence University Director of Athletic Media Relations Walter H. Johnson.

By Representative McCoy and others,

By Senators Ayer, Bray, Collamore, Flory and Mullin,

H.C.R. 263.

House concurrent resolution honoring Poultney Selectboard Chair Edward Lewis for his exemplary community leadership in the Town of Poultney and in Addison and Rutland counties.

By Representatives Donovan and Davis,

H.C.R. 264.

House concurrent resolution honoring Vermont State employees for their exemplary public service.

By Representative Myers and others,

H.C.R. 265.

House concurrent resolution honoring Essex Municipal Manager Patrick C. Scheidel for his quarter-century of dedicated public service.

By Representative Miller and others,

By Senators Sears and Campion,

H.C.R. 266.

House concurrent resolution in memory of North Bennington civic leader Robert James McWaters.

By Representatives Zagar and Clarkson,

By Senator McCormack,

H.C.R. 267.

House concurrent resolution honoring David Michael Green for his community service in Massachusetts and Vermont and, especially, in the towns of Barnard and Woodstock.

By Representative Zagar,

By Senator McCormack,

H.C.R. 268.

House concurrent resolution honoring Barnard Selectboard Chair Thomas R. Morse for his civic leadership.

By Representative Chesnut-Tangerman and others,

H.C.R. 269.

House concurrent resolution honoring Tinmouth's civic-minded citizen, Hollis G. Squier.

By Representatives Burditt and Potter,

By Senators Collamore, Flory and Mullin,

H.C.R. 270.

House concurrent resolution in memory of West Rutland Selectboard member Peter Bianchi.

By Representative Beck and others,

By Senators Benning and Kitchel,

H.C.R. 271.

House concurrent resolution congratulating the 2016 St. Johnsbury Academy State championship girls' indoor track team.

By Representatives Masland and Briglin,

H.C.R. 272.

House concurrent resolution congratulating Brian Kasten on winning the 2016 International Bowhunting Organization 3D Indoor World Championship.

By Representatives Krebs and Johnson,

H.C.R. 273.

House concurrent resolution designating March 10, 2016 as Multiple Sclerosis Awareness Day in Vermont.

By Representative Burke and others,

By Senators Balint and White,

H.C.R. 274.

House concurrent resolution honoring Stephen Stearns for his artistic and community contributions at the New England Youth Theatre.

By Representative Tate and others,

H.C.R. 275.

House concurrent resolution congratulating Agron and Irena Gerdhuqi on the tenth anniversary of Olympic Pizza in Rutland City.

By All Members of the House,

By Senators Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons, MacDonald, Mazza, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White and Zuckerman,

H.C.R. 276.

House concurrent resolution commemorating the 70th anniversary of the Vermont Air National Guard.

By Representative Potter and others,

H.C.R. 277.

House concurrent resolution congratulating the 2015 Proctor High School Phantoms Division IV championship boys' soccer team.

By Representative Potter and others,

H.C.R. 278.

House concurrent resolution congratulating the Proctor High School Division IV 2015 championship girls' soccer team.

Adjournment

On motion of Senator Baruth, the Senate adjourned, to reconvene on Tuesday, March 15, 2016, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 44.

TUESDAY, MARCH 15, 2016

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Paul Habersang of Montpelier.

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Bills Referred to Committee on Appropriations

Senate bills of the following titles, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule were severally referred to the Committee on Appropriations:

S. 52. An act relating to the Uniform Interstate Family Support Act.

S. 153. An act relating to jurors' fees.

Bills Referred to Committee on Finance

Senate bills of the following titles, appearing on the Calendar for notice, and affecting the revenue of the state, under the rule were severally referred to the Committee on Finance:

S. 230. An act relating to improving the siting of energy projects.

S. 242. An act relating to the service of civil process by a constable.

S. 243. An act relating to combating opioid abuse in Vermont.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 46.

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senators Baruth and Benning,

J.R.S. 46. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 18, 2016, it be to meet again no later than Tuesday, March 22, 2016.

Joint Resolution Placed on Calendar

J.R.S. 47.

Joint Senate resolution of the following title was offered, read the first time and is as follows:

By Committee on Agriculture,

J.R.S. 47. Joint resolution expressing appreciation to the National Milk Producers Federation and Vermont's dairy farmers for their phasing out the tail docking of dairy farm animals.

Whereas, the National Milk Producers Federation (NMPF) is a large organization that most dairy farmers in Vermont are associated with through their respective cooperative memberships, and

Whereas, routine tail docking of dairy animals has become a controversial practice, and

Whereas, NMPF's National Dairy FARM (Farmers Assuring Responsible Management) Program opposes the tail docking of dairy farm animals except in instances of traumatic injury, and

Whereas, an NMPF initiative is directing the phasing out of the tail docking of dairy farm animals as of January 1, 2017, and

Whereas, switch trimming will be the recommended alternative, and

Whereas, although federal, state, and local animal cruelty laws can serve as important preventative measures, they are unnecessary with respect to the tail docking of dairy farm animals because Vermont's dairy farmers, along with the NMPF, are voluntarily decreasing the prevalence of this practice in routine situations on dairy farms in Vermont and nationwide, *now therefore be it*

Resolved by the Senate and House of Representatives:

That the General Assembly expresses its appreciation to the National Milk Producers Federation and Vermont's dairy farmers for their phasing out the tail docking of dairy farm animals, *and be it further*

Resolved: That the Secretary of State be directed to send a copy of this resolution to the National Milk Producers Federation, to U.S. Secretary of Agriculture Tom Vislack, to Vermont Secretary of Agriculture, Food and Markets Chuck Ross, and to the Vermont Congressional Delegation.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Joint Resolution Placed on Calendar

J.R.H. 23.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution authorizing Green Mountain Boys State educational program to use the State House

by: Representatives Lawrence of Lyndon and Marcotte of Coventry

Whereas, the American Legion in Vermont sponsors the Green Mountain Boys State program, which provides an opportunity for boys in high school to study the workings of State government in Montpelier, and

Whereas, as part of their visit to the State's capital city, the boys conduct a mock legislative session in the State House, and

Whereas, this is an invaluable educational experience that provides firsthand knowledge about the legislative process, now therefore be it

Resolved by the Senate and House of Representatives:

That the Sergeant at Arms shall make available the chambers and committee rooms of the State House for the Green Mountain Boys State program on Thursday, June 23, 2016 from 8:00 a.m. to 5:00 p.m., and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the American Legion Department of Vermont in Montpelier.

Thereupon, in the discretion of the President, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 112.

An act relating to access to financial records in adult protective services investigations.

To the Committee on Judiciary.

H. 517.

An act relating to the classification of State waters.

To the Committee on Natural Resources and Energy.

H. 526.

An act relating to the Commissioner of Liquor Control and the Liquor Control Board.

To the Committee on Economic Development, Housing and General Affairs.

H. 674.

An act relating to public notice of wastewater discharges.

To the Committee on Natural Resources and Energy.

H. 747.

An act relating to the State Treasurer's authority to intercept State funding to a municipality or school district in default from a Municipal Bond Bank borrowing.

To the Committee on Finance.

H. 778.

An act relating to State enforcement of the federal Food Safety Modernization Act.

To the Committee on Agriculture.

Bill Amended; Third Reading Ordered

S. 245.

Senator Ayer, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to disclosure of health care provider affiliations.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. GREEN MOUNTAIN CARE BOARD; NOTICE TO PATIENTS OF NEW AFFILIATION

The Green Mountain Care Board shall maintain a policy for reviewing new physician acquisitions and transfers as part of the Board's hospital budget review responsibilities. The policy shall require hospitals to provide written notice about a new acquisition or transfer of health care providers to each patient served by a health care provider during the previous three-year period, including:

(1) notifying the patient that the health care provider is now affiliated with the hospital;

(2) providing the hospital's name and contact information;

(3) notifying the patient that the change in affiliation may affect his or her out-of-pocket costs, depending on the patient's health insurance plan and the services provided; and

(4) recommending that the patient contact his or her insurance company with specific questions or to determine his or her actual financial liability.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

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

An act relating to notice to patients of new health care provider affiliations.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Health and Welfare?, Senator Ayer moved to amend the recommendation of the Committee on Health and Welfare in Sec. 1, Green Mountain Care Board; notice to patients of new affiliation, in the second sentence, by striking out the word "a" prior to the words "health care provider" and inserting in lieu thereof the words an acquired or transferred

Which was agreed to.

Thereupon, the recommendation of amendment of the Committee on Health and Welfare, as amended was agreed to and third reading of the bill was ordered.

Bill Passed

S. 157.

Senate bill of the following title was read the third time and passed:

An act relating to breast density notification and education.

Consideration Postponed

S. 183.

Senate bill entitled:

An act relating to permanency for children in the child welfare system.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the bill in Sec. 8, 33 V.S.A. § 5125, in subsection (e), by striking out the last sentence.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Sirotkin?, Senator Sears moved that consideration of the bill be posted until the next legislative day.

Bill Amended; Bill Passed

S. 255.

Senate bill entitled:

An act relating to regulation of hospitals, health insurers, and managed care organizations.

Was taken up.

Thereupon, pending third reading of the bill, Senator Benning moved to amend the bill by striking out Sec. 11, effective dates, in its entirety and inserting in lieu thereof the following:

Sec. 11. VERMONT HEALTH CONNECT SUSTAINABILITY ASSESSMENT; REPORT

(a) The Green Mountain Care Board shall determine the long-term sustainability of Vermont Health Connect. If the Board determines that Vermont's operation of a State-based Exchange is not feasible in the long-term, the Board shall recommend whether it would be more advantageous for Vermont residents to transition to a fully federally facilitated Exchange or to a federally facilitated State-based Exchange.

(b) On or before December 15, 2016, the Green Mountain Care Board shall deliver to the General Assembly its report, which shall include the evaluation of Vermont Health Connect's long-term sustainability and an implementation plan for transitioning to the selected federal Exchange model, if applicable, for coverage beginning on January 1, 2018 or as soon thereafter as is practicable. If the Board recommends moving to a new Exchange model, the plan shall include a description of the federally facilitated Exchange model selected, estimates of the costs associated with the transition and with ongoing participation in the federally facilitated Exchange, options for financing the transition and participation costs, and a detailed timeline of the steps necessary to ensure that the transition will take place without causing any disruption to Medicaid or private health insurance coverage. The plan shall also include a description of the steps needed to dismantle unnecessary functions of Vermont Health Connect while minimizing financial exposure to the State.

Sec. 12. EFFECTIVE DATES

(a) Secs. 1 (hospital needs assessment), 2 (hospital community reports), 11 (Exchange sustainability assessment), and this section shall take effect on passage.

(b) The remaining sections shall take effect on July 1, 2016.

Thereupon, pending the question, Shall the bill be amended as recommended by Senator Benning?, Senator Benning requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, pending third reading of the bill, Senator Lyons moved to amend the bill as follows:

First: In Sec. 6, health care provider bargaining group; rulemaking, by adding a second sentence to read as follows:

The Board's rule shall be at least as protective of health care providers as Rule 6.00.

Second: By striking out Sec. 10, recommendations for potential alignment, in its entirety and inserting in lieu thereof a new Sec. 10 to read as follows:

Sec. 10. RECOMMENDATIONS FOR POTENTIAL ALIGNMENT

The Director of Health Care Reform in the Agency of Administration, in collaboration with the Green Mountain Care Board and the Department of Financial Regulation, shall compare the requirements in federal law applicable to Vermont's accountable care organizations and to the Department of Vermont Health Access in its role as a public managed care organization with the provisions of 18 V.S.A. § 9414(a)(1) as they apply to managed care organizations to identify opportunities for alignment, including alignment of mental health standards. The Director of Health Care Reform shall make recommendations on or before December 15, 2017 to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance on appropriate ways to improve alignment. In preparing his or her recommendations, the Director shall take into consideration the financial and operational implications of alignment and shall consult with interested stakeholders, including health care providers, accountable care organizations, the Office of the Health Care Advocate, and health insurance and managed care organizations, as defined in 18 V.S.A. § 9402.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Third Reading Ordered

J.R.S. 45.

Joint Senate committee resolution entitled:

Joint resolution relating to the transfer of two State-owned parcels of land to the Town of Duxbury.

Having appeared on the Calendar for notice for one day, was taken up.

Thereupon, the joint Senate resolution was read the second time by title only pursuant to Rule 43, and third reading of the joint Senate resolution was ordered.

Bill Amended; Third Reading Ordered

S. 196.

Senator Lyons, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to the Agency of Human Services' contracts with providers.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Nutrition Procurement Standards for State Government * * *

Sec. 1. FINDINGS

(a) Approximately 13,000 Vermont residents are employed by the State. Reducing the impact of diet-related diseases will support a more productive and healthy workforce that will pay dividends to Vermont's economy and cultivate national competitiveness for State residents and employees.

(b) Improving the nutritional quality of food sold or provided by the State on public property will support people in making healthy eating choices.

(c) State properties are visited by Vermont residents and out-of-state visitors, and also provide care to dependent adults and children.

(d) Approximately 25 percent of Vermont residents are overweight or obese.

(e) Obesity costs Vermont $291 million each year in health care costs, contributing to debilitating yet preventable diseases, such as heart disease, cancer, stroke, and diabetes.

(f) Improving the types of foods and beverages served and sold in workplaces positively affects employees' eating behaviors and can result in weight loss.

(g) Maintaining a healthy workforce can positively affect indirect costs by reducing absenteeism and increasing worker productivity.

Sec. 2. 29 V.S.A. § 160c is added to read:

§ 160c. NUTRITION PROCUREMENT STANDARDS

(a)(1) The Commissioner of Health shall establish and post on the Department's website nutrition procurement standards that:

(A) consider relevant guidance documents, including those published by the U.S. General Services Administration, the American Heart Association, and the National Alliance for Nutrition and Activity and, upon request, the Department shall provide a rationale for any divergence from these guidance documents;

(B) consider both positive and negative contributions of nutrients, ingredients, and food groups to diets, including calories, portion size, saturated fat, trans fat, sodium, sugar, and the presence of fruits, vegetables, whole grains, and other nutrients of concern in Americans' diets; and

(C) contain exceptions for circumstances in which State-procured foods or beverages are intended for individuals with specific dietary needs.

(2) The Commissioner shall review and, if necessary, amend the nutrition procurement standards at least every five years to reflect advances in nutrition science, dietary data, new product availability, and updates to federal Dietary Guidelines for Americans.

(b)(1) All foods and beverages purchased, sold, served, or otherwise provided by the State or any entity, subdivision, or employee on behalf of the State shall meet the minimum nutrition procurement standards established by the Commissioner of Health.

(2) All bids and contracts between the State and food and beverage vendors shall comply with the nutrition procurement standards. The Commissioner, in conjunction with the Commissioner of Buildings and General Services, may periodically review or audit a contracting food or beverage vendor's financial reports to ensure compliance with this section.

(c) The Governor's Health in All Policies Task Force may disseminate information to State employees on the Commissioner's nutrition procurement standards.

(d) All State-owned or -operated vending machines, food or beverage vendors contracting with the State, or cafeterias located on property owned or operated by the State shall display nutritional labeling to the extent permitted under the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. ch. 9 § 301 et seq.

(e) The Commissioner of Buildings and General Services shall incorporate the nutrition procurement standards established by the Commissioner into the appropriate procurement document.

Sec. 3. EXISTING PROCUREMENT CONTRACTS

To the extent possible, the State's existing contracts and agreements with food and beverage vendors shall be modified to comply with the nutrition procurement standards established by the Commissioner of Health.

* * * Contracts between the Agency of Human Services and Providers * * *

Sec. 4. REPORT; AGENCY OF HUMAN SERVICES' CONTRACTS

(a) On or before January 1, 2017, the Agency of Human Services, in consultation with Vermont Care Partners, the Green Mountain Care Board, and representatives from preferred providers, shall submit a report to the Senate Committee on Health and Welfare and to the House Committees on Health Care and on Human Services. The report shall address the following:

(1) the amount and type of performance measures and other evaluations used in fiscal year 2016 and 2017 Agency contracts with designated agencies, specialized service agencies, and preferred providers;

(2) how the Agency's funding levels of designated agencies, specialized service agencies, and preferred providers affect access to and quality of care; and

(3) how the Agency's funding levels for designated agencies, specialized service agencies, and preferred providers affect compensation levels for staff relative to private and public sector pay for the same services.

(b) The report shall contain a plan developed in conjunction with the Vermont Health Care Innovation Project and in consultation with the Vermont Care Network and the Vermont Council of Developmental and Mental Health Services to implement a value-based payment methodology for designated agencies, specialized service agencies, and preferred providers that shall improve access to and quality of care, including long-term financial sustainability. The plan shall describe the interaction of the value-based payment methodology for Medicaid payments made to designated agencies, specialized service agencies, and preferred providers by the Agency with any Medicaid payments made to designated agencies, specialized service agencies, and preferred providers by the accountable care organizations.

(c) As used in this section:

(1) "Designated agency" means the same as in 18 V.S.A. § 7252.

(2) "Preferred provider" means any substance abuse organization that has attained a certificate of operation from the Department of Health's Division of Alcohol and Drug Abuse Programs and has an existing contract or grant from the Division to provide substance abuse treatment.

(3) "Specialized service agency" means any community mental health and developmental disability agency or any public or private agency providing specialized services to persons with a mental condition or psychiatric disability or with developmental disabilities or children and adolescents with a severe emotional disturbance pursuant to 18 V.S.A. § 8912.

Sec. 5. MEDICAID PATHWAY

(a) The Secretary of Human Services, in consultation with the Director of Health Care Reform and affected providers, shall create a process for payment and delivery system reform for Medicaid providers and services. This process shall address all Medicaid payments to affected providers and shall focus on services not included in the Medicaid equivalent of Medicare Part A and Part B services.

(b) On or before January 15, 2017 and annually for five years thereafter, the Secretary of Human Services shall report on the results of this process to the Senate Committee on Health and Welfare, the House Committees on Health Care and on Human Services, and the Green Mountain Care Board. The Secretary's report shall address:

(1) all Medicaid payments to affected providers, including progress toward integration of services not included in the Medicaid equivalent of Medicare Part A and Part B services in the previous year;

(2) changes to reimbursement methodology and services impacted;

(3) changes to quality measure collection and identifying alignment efforts and analyses, if any; and

(4) the interrelationship of results-based accountability initiatives with the quality measures in subdivision (3) of this subsection.

Sec. 6. EFFECTIVE DATES

(a) This section and Secs. 4 and 5 shall take effect on passage.

(b) Secs. 1–3 shall take effect on July 1, 2016.

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

An act relating to nutrition procurement standards for State government and the Agency of Human Services' contracts with providers.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment was agreed to on a division of the Senate, Yeas 19, Nays 6.

Thereupon, third reading of the bill was ordered.

Committee Relieved of Further Consideration; Bill Committed

H. 112.

On motion of Senator Sears, the Committee on Judiciary was relieved of further consideration of House bill entitled:

An act relating to access to financial records in adult protective services investigations,

and the bill was committed to the Committee on Health and Welfare.

Message from the House No. 33

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 857. An act relating to timber harvesting.

H. 858. An act relating to miscellaneous criminal procedure amendments.

In the passage of which the concurrence of the Senate is requested.

Adjournment

On motion of Senator Baruth, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 16, 2016.

WEDNESDAY, MARCH 16, 2016

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 857.

An act relating to timber harvesting.

To the Committee on Natural Resources and Energy.

H. 858.

An act relating to miscellaneous criminal procedure amendments.

To the Committee on Judiciary.

Bill Amended; Bill Passed

S. 225.

Senate bill entitled:

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

Was taken up.

Thereupon, pending third reading of the bill, Senator Degree, Flory, Kitchel, Mazza, and Westman moved to amend the bill by striking out Sec. 7 and the reader assistance thereto in their entirety and inserting in lieu thereof the following:

Sec. 7. [Deleted.]

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Rodgers moved to amend the bill by adding a new section to be Sec. 26 and a reader assistance thereto to read:

* * * ATV Operation on State Highways; Pilot Program; Orleans County * * *

Sec. 26. ATV OPERATION ON STATE HIGHWAYS; PILOT PROGRAM; ORLEANS COUNTY

(a) A pilot program is established to authorize the operation of all-terrain vehicles (ATVs) on State highways in Orleans County in accordance with this section. The pilot program shall start on July 1, 2016, and end on July 1, 2020.

(b) Notwithstanding 23 V.S.A. § 3506(b), during the term of the pilot program, a person may operate an ATV along a State highway, other than I-91, for a distance of one mile or less, if the State highway:

(1) connects properties open to ATV travel, including a town highway that has been opened to ATV travel. The operator may access properties adjacent to the connecting State highway that offer food, fuel, lodging, or repair services; or

(2) provides access to the closest food, fuel, lodging, or repair services that are available from property open to ATV travel.

(c) A person shall not operate an ATV along a State highway under the pilot program unless the person:

(1) wears protective headgear of a type approved by the Commissioner of Motor Vehicles;

(2) maintains financial responsibility at the levels specified at 23 V.S.A. § 800;

(3) complies with the signaling requirements of 23 V.S.A. §§ 1064 and 1065; and

(4) complies with all motor vehicle laws applicable when an ATV is operated on a public highway as specified at 23 V.S.A. § 3501(5).

(d) A person who violates subsection (c) of this section shall be subject to the penalty prescribed in 23 V.S.A. § 3507.

(e) The Commissioner of Public Safety, after consulting with the Vermont ATV Sportsman's Association and municipalities in Orleans County, shall submit an interim written report to the House and Senate Committees on Transportation on or before January 15, 2018, and a follow-up written report on or before January 15, 2021, evaluating the pilot program.

And by renumbering the remaining section to be numerically correct.

Which was disagreed to.

Thereupon, the bill was read the third time and passed.

Consideration Resumed; Bill Amended; Bill Passed

S. 183.

Consideration was resumed on Senate bill entitled:

An act relating to permanency for children in the child welfare system.

Thereupon, the pending question, Shall the bill be amended as moved by Senator Sirotkin?, was decided in the affirmative.

Thereupon, the bill was read the third time and passed.

Bill Amended; Bill Passed

S. 75.

Senate bill entitled:

An act relating to food and lodging establishments.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sirotkin moved to amend the bill by in Sec. 1, 18 V.S.A. § 4301(a)(9) by inserting after the first sentence: "Lodging establishment" shall not include lodging establishments renting three or fewer units to the public.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Nitka, Collamore, and Starr moved to amend the bill in Sec. 1, 18 V.S.A. § 4301(a)(7), by inserting after the second sentence: A food manufacturing establishment shall not include a place where only maple syrup or maple products, as defined in 6 V.S.A. § 481, are prepared for human consumption.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Bill Amended; Bill Passed

S. 196.

Senate bill entitled:

An act relating to the Agency of Human Services' contracts with providers.

Was taken up.

Thereupon, pending third reading of the bill, Senator Sears moved to amend the bill by in Sec. 1, in subsection (a), in the first sentence, by inserting after the word "State", the following: or employed by a person contracting with the State

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 45.

Joint Senate resolution of the following title was read the third time and adopted on the part of the Senate:

Joint resolution relating to the transfer of two State-owned parcels of land to the Town of Duxbury.

Bill Amended; Third Reading Ordered

S. 91.

Senator Ashe, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to qualifications of judicial officers and judicial selection and retention.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 4 V.S.A. § 601 is amended to read:

§ 601. JUDICIAL NOMINATING BOARD CREATED; COMPOSITION

(a) A Judicial Nominating Board is created for the nomination of Supreme Court Justices, Superior judges, magistrates, the Chair ~~of the Public Service Board,~~ and members of the Public Service Board.

(b) The Board shall consist of 11 members who shall be selected as follows:

(1) The Governor shall appoint two members who are not attorneys at law.

(2) The Senate shall elect three of its members, not all of whom shall be members of the same party, and only one of whom may be an attorney at law.

(3) The House shall elect three of its members, not all of whom shall be members of the same party, and only one of whom may be an attorney at law.

(4) Attorneys at law admitted to practice before the Supreme Court of Vermont, and residing in the State, shall elect three of their number as members of the Board. The Supreme Court shall regulate the manner of their nomination and election.

(5) The members of the Board appointed by the Governor shall serve for terms of two years and may serve for no more than three consecutive terms. The members of the Board elected by the House and Senate shall serve for terms of two years and may serve for no more than three consecutive terms. The members of the Board elected by the attorneys at law shall serve for terms of two years and may serve for no more than three consecutive terms. All appointments or elections shall be between January 1 and February 1 of each odd-numbered year, except to fill a vacancy. Members shall serve until their successors are elected or appointed.

(6) The members shall elect their own chair who will serve for a term of two years.

(c) Legislative members of the Board shall be entitled to per diem compensation and reimbursement for expenses in accordance with 2 V.S.A. § 406. Members of the Board who are not otherwise compensated by their employer shall be entitled to per diem compensation and reimbursement for expenses in the same manner as board members are compensated under

32 V.S.A. § 1010. All compensation and reimbursement shall be paid from the legislative appropriation.

(d) The Judicial Nominating Board ~~shall~~ may adopt rules under 3 V.S.A. chapter 25 which shall establish criteria and standards for the nomination of candidates for Justices of the Supreme Court, Superior judges, magistrates, and the Chair ~~of the Public Service Board,~~ and members of the Public Service Board based on the attributes identified in subsection 602(f) of this title. ~~The criteria and standards shall include such factors as integrity, legal knowledge and ability, judicial temperament, impartiality, health, experience, diligence, administrative and communicative skills, social consciousness, and public service.~~ The application form shall not be included in the rules and may be developed and periodically revised at the discretion of the Board.

(e) A quorum of the Board shall consist of eight members.

(f) The Board is authorized to use the staff and services of appropriate State agencies and departments as necessary to conduct investigations of applicants. The Office of Legislative Council shall assist the Board for the purpose of rulemaking.

(g) Except as provided in subsection (h) of this section, proceedings of the Board, including the names of candidates considered by the Board and information about any candidate submitted by the Court Administrator or by any other source shall be confidential.

(h) The following shall be public:

(1) operating procedures of the Board;

(2) standard application forms and any other forms used by the Board, provided they do not contain personal information about a candidate or confidential proceedings;

(3) all proceedings of the Board prior to the Board's receipt of the first candidate's completed application; and

(4) at the time the Board sends the names of the candidates to the Governor, the total number of applicants for the vacancy and the total number of candidates sent to the Governor.

Sec. 2. 4 V.S.A. § 602 is amended to read:

§ 602. DUTIES; JUSTICES, JUDGES, MAGISTRATES, AND THE CHAIR OF THE PUBLIC SERVICE BOARD

(a)(1) Prior to ~~submission of~~ submitting to the Governor the names of ~~qualified~~ candidates for ~~justices~~ Justices of the ~~supreme court~~ Supreme Court, ~~superior~~ Superior Court judges, magistrates, ~~the chair of the public service~~

~~board, and members of the public service board to the governor~~ and the Chair of the Public Service Board, the ~~board~~ Judicial Nominating Board shall submit to the ~~court administrator of the supreme court~~ Court Administrator a list of all candidates, and ~~the administrator~~ he or she shall disclose to the ~~board~~ Board information solely about professional disciplinary action taken or pending concerning any candidate.

(2) From the list of candidates ~~presented~~, the ~~judicial nominating board~~ Judicial Nominating Board shall select by majority vote, provided that a quorum is present, ~~qualified~~ well-qualified candidates for the position to be filled.

(b) Whenever a vacancy occurs in the office of a ~~supreme court justice or~~ Supreme Court Justice, a ~~superior judge~~ Superior Court judge, magistrate, or Chair of the Public Service Board, or when an incumbent does not declare that he or she will be a candidate to succeed himself or herself, the ~~judicial nominating board~~ Board shall submit to the ~~governor~~ Governor the names of as many persons as it deems ~~qualified~~ well qualified to be appointed to the office. ~~There shall be included in the qualifications for appointment that the person shall be an attorney at law who has been engaged in the practice of law or a judge in the state of Vermont for a period of at least five out of the ten years preceding appointment, and with respect to a candidate for superior judge particular consideration shall be given to the nature and extent of the candidate's trial practice.~~

(c) ~~All proceedings of the board, including the names of candidates considered by the board and information about any candidate submitted by the court administrator or by any other source, shall be confidential.~~

(1) A candidate for judge or Justice shall be a Vermont resident and an experienced lawyer who has practiced law in Vermont for a minimum of ten years, with at least five years immediately preceding his or her application to the Board.

(2) A candidate for magistrate shall be a Vermont resident and an experienced lawyer who has practiced law in Vermont for at least five years immediately preceding his or her application to the Board.

(3) A candidate for Chair of the Public Service Board shall not be required to be an attorney; however if the candidate is admitted to practice law in Vermont, the Judicial Nominating Board shall submit the candidate's name to the Court Administrator, and he or she shall disclose to the Board information solely about professional disciplinary action taken or pending concerning the candidate. If a candidate is not admitted to practice law in Vermont, but practices a profession requiring licensure, certification, or other professional regulation by the State, the Judicial Nominating Board shall

submit the candidate's name to the State professional regulatory entity and that entity shall disclose to the Board any professional disciplinary action taken or pending concerning the candidate.

(d) A candidate shall possess the following attributes:

(1) Integrity. A candidate shall possess a record and reputation for excellent character and integrity.

(2) Legal knowledge and ability. A candidate shall possess a high degree of knowledge of established legal principles and procedures and have demonstrated a high degree of ability to interpret and apply the law to specific factual situations.

(3) Judicial temperament. A candidate shall possess an appropriate judicial temperament.

(4) Impartiality. A candidate shall exhibit an ability to make judicial determinations in a manner free of bias.

(5) Communication capability. A candidate shall possess demonstrated oral and written capacities, with reasonable accommodations, required by the position.

(6) Financial integrity. A candidate shall possess demonstrated financial probity.

(7) Work ethic. A candidate shall demonstrate diligence.

(8) Administrative capabilities. A candidate shall demonstrate management and organizational skills or experience required by the position.

(9) Courtroom experience. For Superior Court, a candidate shall have sufficient trial or other comparable experience that ensures knowledge of the Vermont Rules of Evidence and courtroom procedure. For the Environmental Division of the Superior Court, a candidate shall have experience in environmental and zoning law.

(10) Other. A candidate shall possess other attributes the Board deems relevant as identified through its rules.

Sec. 3. 4 V.S.A. § 602a is added to read:

§ 602a. DUTIES; PUBLIC SERVICE BOARD MEMBERS

(a) In accordance with 30 V.S.A. § 3, whenever a vacancy occurs for a member position on the Public Service Board, the Governor shall submit at least five names of potential nominees to the Judicial Nominating Board for review. The Judicial Nominating Board shall submit to the Governor the names of candidates it deems well qualified. The Judicial Nominating Board

shall submit to the Governor a summary of the qualifications and experience of each candidate whose name is submitted to the Governor, together with any further information relevant to the matter. Vacancies for the position of Chair of the Public Service Board shall follow the procedure set forth in section 602 of this title.

(b) A candidate for the position of member of the Public Service Board shall not be required to be an attorney; however, if the candidate is admitted to practice law in Vermont, the Judicial Nominating Board shall submit the candidate's name to the Court Administrator, and he or she shall disclose to the Board information solely about professional disciplinary action taken or pending concerning the candidate. If a candidate is not admitted to practice law in Vermont, but practices a profession requiring licensure, certification, or other professional regulation by the State, the Judicial Nominating Board shall submit the candidate's name to the State professional regulatory entity and that entity shall disclose to the Board any professional disciplinary action taken or pending concerning the candidate.

(c) A candidate shall possess the attributes provided in subsection 602(d) of this title.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read: "An act relating to procedures of the Judicial Nominating Board and qualifications of candidates for the positions of Justice, judge, magistrate, and Chair and member of the Public Service Board"

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment was agreed to.

Thereupon, pending the question, Shall the bill be read the third time?, Senator Ashe moved to amend the bill as follows:

First: In Sec. 1, 4 V.S.A. § 601, in subsection (d), by striking out the following: "602(f)" and by inserting in lieu thereof the following: 602(d)

Second: In Sec. 1, 4 V.S.A. § 601, in subsection (g), by inserting a comma between the word "source" and the word "shall"

Which was agreed to.

Thereupon, third reading of the bill was ordered.

Bills Amended; Third Readings Ordered

S. 132.

Senator Ayer, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to the prohibition of conversion therapy on minors.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Findings * * *

Sec. 1. FINDINGS

In recognition that being lesbian, gay, bisexual, or transgender is part of the natural spectrum of human identity and is not a disease, disorder, illness, deficiency, or shortcoming, the General Assembly finds:

(1) Vermont has a compelling interest in protecting the physical and psychological well-being of children, including lesbian, gay, bisexual, and transgender youth, and in protecting its children against exposure to serious harms.

(2) A 2015 report published by the U.S. Substance Abuse and Mental Health Service's Administration states "conversion therapy…is a practice that is not supported by credible evidence and has been disavowed by behavioral health experts and associations…[m]ost importantly, it may put young people at risk of serious harm."

(3) The American Academy of Pediatrics, the American Counseling Association, the American Psychiatric Association, the American Psychological Association, the National Association of School Psychologists, and the National Association of Social Workers, together representing more than 477,000 health and mental health professionals, have all taken the position that homosexuality is not a mental disorder and thus there is no need for a "cure."

* * * Conversion Therapy * * *

Sec. 2. 18 V.S.A. chapter 196 is added to read:

CHAPTER 196. CONVERSION THERAPY

§ 8351. DEFINITIONS

As used in this chapter:

(1) "Conversion therapy" means any practice by a mental health care provider that seeks to change an individual's sexual orientation, including

efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same sex. "Conversion therapy" does not include psychotherapies that:

(A) provide support to an individual undergoing gender transition; and

(B) provide acceptance, support, and understanding of clients or the facilitation of clients' coping, social support, and identity exploration and development, including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices and that do not seek to change an individual's sexual orientation or gender identity.

(2) "Mental health care provider" means a person licensed to practice medicine pursuant to 26 V.S.A. chapter 23, 33, or 81 who specializes in the practice of psychiatry; a psychologist, a psychologist-doctorate, or a psychologist-master as defined in 26 V.S.A. § 3001; a clinical social worker as defined in 26 V.S.A. § 3201; a clinical mental health counselor as defined in 26 V.S.A. § 3261; a licensed marriage and family therapist as defined in 26 V.S.A. § 4031; a psychoanalyst as defined in 26 V.S.A. § 4051; any other allied mental health professional; or a student, intern, or trainee of any such profession.

§ 8352. TREATMENT OF MINORS

A mental health care provider shall not use conversion therapy with a client younger than 18 years of age.

§ 8353. UNPROFESSIONAL CONDUCT

Any conversion therapy used on a client younger than 18 years of age by a mental health care provider shall constitute unprofessional conduct as provided in the relevant provisions of Title 26 and shall subject the mental health care provider to discipline pursuant to the applicable provisions of that title and of 3 V.S.A. chapter 5.

* * * Physicians * * *

Sec. 3. 26 V.S.A. § 1354(a) is amended to read:

(a) The ~~board~~ Board shall find that any one of the following, or any combination of the following, whether or not the conduct at issue was committed within or outside the ~~state~~ State, constitutes unprofessional conduct:

* * *

(39) use of the services of a physician assistant by a physician in a manner which is inconsistent with the provisions of chapter 31 of this title; or

(40) use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Osteopathy * * *

Sec. 4. 26 V.S.A. § 1842(b) is amended to read:

(b) Unprofessional conduct means the following conduct and conduct set forth in 3 V.S.A. § 129a~~.~~:

* * *

(13) Use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Psychologists * * *

Sec. 5. 26 V.S.A. § 3016 is amended to read:

§ 3016. UNPROFESSIONAL CONDUCT

Unprofessional conduct means the conduct listed in this section and in 3 V.S.A. § 129a:

* * *

(11) Use of conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Clinical Social Workers * * *

Sec. 6. 26 V.S.A. § 3210(a) is amended to read:

(a) The following conduct and the conduct set forth in 3 V.S.A. § 129a by a licensed social worker constitutes unprofessional conduct. When that conduct is by an applicant or a person who later becomes an applicant, it may constitute grounds for denial of a license:

* * *

(12) failing to clarify the clinical social worker's role with the parties involved and to take appropriate action to minimize any conflicts of interest, when the clinical social worker anticipates a conflict of interest among the individuals receiving services or anticipates having to perform in conflicting roles such as testifying in a child custody dispute or divorce proceedings involving clients; or

(13) using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

Sec. 7. 26 V.S.A. § 3210(a) is amended to read:

(a) The following conduct and the conduct set forth in 3 V.S.A. § 129a by a person licensed under this chapter constitutes unprofessional conduct. When that conduct is by an applicant or a person who later becomes an applicant, it may constitute grounds for denial or discipline of a license:

* * *

(12) failing to clarify the licensee's role with the parties involved and to take appropriate action to minimize any conflicts of interest, when the clinical social worker anticipates a conflict of interest among the individuals receiving services or anticipates having to perform in conflicting roles such as testifying in a child custody dispute or divorce proceedings involving clients; or

(13) using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Clinical Mental Health Counselors * * *

Sec. 8. 26 V.S.A. § 3271(a) is amended to read:

(a) Unprofessional conduct means the following conduct and conduct set forth in 3 V.S.A. § 129a.:

* * *

(7) independently practicing outside or beyond a clinical mental health counselor's area of training, experience or competence without appropriate supervision; or

(8) using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Marriage and Family Therapists * * *

Sec. 9. 26 V.S.A. § 4042(a) is amended to read:

(a) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a:

* * *

(7) Using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Psychoanalysts * * *

Sec. 10. 26 V.S.A. § 4062(a) is amended to read:

(a) Unprofessional conduct means the following conduct and the conduct set forth in 3 V.S.A. § 129a:

* * *

(7) Using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Naturopathic Physicians * * *

Sec. 11. 26 V.S.A. § 4132(a) is amended to read:

(a) The following conduct and conduct set forth in 3 V.S.A. § 129a by a person licensed under this chapter or an applicant for licensure constitutes unprofessional conduct:

* * *

(11) Using conversion therapy as defined in 18 V.S.A. § 8351 on a client younger than 18 years of age.

* * * Effective Dates * * *

Sec. 12. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except Sec. 7 shall take effect on July 1, 2017.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 174.

Senator Ashe, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to a model State policy for use of body cameras by law enforcement officers.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. LAW ENFORCEMENT ADVISORY BOARD; MODEL STATE POLICY; BODY CAMERAS

(a)(1) On or before December 15, 2016, the Law Enforcement Advisory Board shall establish and report to the Senate and House Committees on Judiciary and on Government Operations a statewide policy for the use of body cameras by Vermont law enforcement officers.

(2) The report required by this subsection shall include a section addressing:

(A) any costs associated with establishing the statewide policy, including strategies for minimizing the costs of obtaining cameras and storing data; and

(B) potential grants available to alleviate the costs of establishing the statewide policy.

(b) The model policy required by this section shall include provisions regarding:

(1) when a law enforcement officer should wear a body camera;

(2) under what circumstances a law enforcement officer wearing a body camera should turn the camera on and off, and a requirement that the officer provide the reasons for doing so each time the camera is turned on and off;

(3) when a video recording made by a law enforcement officer's body camera should be exempt from disclosure under the Public Records Act as determined by 1 V.S.A. chapter 5, subchapter 3; and

(4) treatment of situations when a law enforcement officer's body camera malfunctions or is unavailable.

(c)(1) Except as provided in subdivision (2) of this subsection, on or before July 1, 2017, every State, local, county, and municipal law enforcement agency and every constable who is not employed by a law enforcement agency shall adopt a policy for the use of body cameras by law enforcement officers that at a minimum meets the requirements of the policy established by the Law Enforcement Advisory Board pursuant to subsection (a) of this section. If a law enforcement agency or officer that is required to adopt a policy pursuant to this subsection fails to do so on or before July 1, 2017, that agency or officer shall be deemed to have adopted, and shall follow and enforce, the model policy established by the Law Enforcement Advisory Board pursuant to subsection (a) of this section.

(2) A law enforcement agency or constable that does not use body cameras shall not be required to adopt a model policy under subdivision (1) of this subsection.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 176.

Senator Sirotkin, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to an income tax credit for home modifications required by a disability or physical hardship.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 20 V.S.A. § 2907 is amended to read:

§ 2907. ACCESSIBILITY STANDARDS; RESIDENTIAL CONSTRUCTION

(a) ~~For the purposes of~~ As used in this chapter, "residential construction" means new construction of one family or multifamily dwellings. "Residential construction" shall not include a single family dwelling built by the owner for the personal occupancy of the owner and the owner's family, or the assembly or placement of residential construction that is prefabricated or manufactured out of state.

(b) Any residential construction shall be built to comply with all the following standards:

(1) At least one first floor exterior door that is at least 36 inches wide.

(2) First floor interior doors between rooms that are at least 34 inches wide or open doorways that are at least 32 inches wide with thresholds that are level, ramped, or beveled.

(3) Interior hallways that are level and at least 36 inches wide.

(4) Environmental and utility controls and outlets that are located at heights that are in compliance with standards adopted by the Vermont ~~access board~~ Access Board.

(5) Bathroom walls that are reinforced to permit attachment of grab bars.

(c) A violation of this section shall neither affect marketability nor create a defect in title of the residential construction.

(d) Prior to the sale of residential construction, a seller shall provide written disclosure to a prospective buyer detailing whether the residential construction is in compliance with the standards described in subsection (b) of this section. Disclosure shall be made on a form and in a manner prescribed by the Access Board.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

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

An act relating to disclosure of compliance with accessibility standards in the sale of residential construction.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 215.

Senator Mullin, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to the regulation of vision insurance plans.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 4088j is amended to read:

§ 4088j. CHOICE OF PROVIDERS FOR VISION CARE AND MEDICAL EYE CARE SERVICES

* * *

(e)(1) An agreement between a health insurer or an entity that writes vision insurance and an optometrist or ophthalmologist for the provision of vision services to plan members or subscribers in connection with coverage under a stand-alone vision care plan or other health insurance plan shall not require that an optometrist or ophthalmologist provide services or materials at a fee limited or set by the plan or insurer unless the services or materials are reimbursed as covered services under the contract.

(2) An optometrist or ophthalmologist shall not charge more for services and materials that are noncovered services under a vision care plan than his or her usual and customary rate for those services and materials.

(3) Reimbursement paid by a vision care plan for covered services and materials shall be reasonable and shall not provide nominal reimbursement in order to claim that services and materials are covered services.

(4) A vision care plan shall not limit an optometrist's or ophthalmologist's choice of or relationship with optical laboratories or sources and suppliers of services or materials if the source, supplier, or laboratory

selected by the optometrist or ophthalmologist offers the services or materials at a lower cost to the consumer than the source, supplier, or laboratory selected by the vision care plan.

(f) The Department of Financial Regulation shall enforce the provisions of this section.

(g) As used in this section:

(1) "Covered services" means services and materials for which reimbursement from a vision care plan or other health insurance plan is provided by a member's or subscriber's plan contract, or for which a reimbursement would be available but for application of the deductible, co-payment, or coinsurance requirements under the member's or subscriber's health insurance plan.

(2) "Health insurance plan" means any health insurance policy or health benefit plan offered by a health insurer or a subcontractor of a health insurer, as well as Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term includes vision care plans but does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

* * *

(7) "Vision care plan" means an integrated or stand-alone plan, policy, or contract providing vision benefits to enrollees with respect to covered services or covered materials, or both.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

S. 216.

Senator Sirotkin, for the Committee on Finance, to which was referred Senate bill entitled:

An act relating to prescription drug formularies.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. PRESCRIPTION DRUG FORMULARIES; RULEMAKING

On or before January 1, 2017, the Commissioner of Financial Regulation shall adopt rules pursuant to 3 V.S.A. chapter 25 to require all health insurers that offer health benefit plans to Vermont residents through the Vermont Health Benefit Exchange to provide information to enrollees, potential enrollees, and health care providers about the plans' prescription drug formularies. The rules shall ensure that the formulary is posted online in a standard format established by the Department of Financial Regulation; that the formulary is updated frequently and is searchable by enrollees, potential enrollees, and health care providers; and that it includes information about the prescription drugs covered, applicable cost-sharing amounts, drug tiers, prior authorization, step therapy, and utilization management requirements.

Sec. 2. 33 V.S.A. § 2011 is added to read:

§ 2011. 340B DRUG PRICING; REIMBURSEMENT FORMULA

The Department of Vermont Health Access shall use the same dispensing fee in its reimbursement formula for 340B prescription drugs as the Department uses to pay for non-340B prescription drugs under the Medicaid program.

Sec. 3. 340B REIMBURSEMENT; REPORT

The Department of Vermont Health Access shall determine the formula used by other states' Medicaid programs to reimburse covered entities that use 340B pricing for dispensing prescription drugs to Medicaid beneficiaries. On or before January 15, 2017, the Department shall report to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance regarding its findings, its recommendations for modifications to Vermont's 340B reimbursement formula, if any, and the financial implications of implementing any recommended modification.

Sec. 4. 18 V.S.A. § 4631a(b) is amended to read:

(b)(1) It is unlawful for any manufacturer of a prescribed product or any wholesale distributor of medical devices, or any agent thereof, to offer or give any gift to a health care provider or to a member of the Green Mountain Care Board established in chapter 220 of this title.

(2) The prohibition set forth in subdivision (1) of this subsection shall not apply to any of the following:

* * *

(K) The provision of coffee ~~or other,~~ snacks, or other refreshments ~~at a booth~~ at a conference or seminar.

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Ordered to Lie

S. 220.

Senator Pollina, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to the public financing of campaigns.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. § 2981 is amended to read:

§ 2981. DEFINITIONS

As used in this subchapter:

* * *

(4) "Vermont campaign finance qualification period" means one of the ~~period beginning February 15 of each even-numbered year and ending on the date on which primary petitions must be filed under section 2356 of this title~~ following periods within which a candidate who intends to seek Vermont campaign finance grants shall be required to obtain qualifying contributions, as chosen by the candidate:

(A) The period beginning October 1 of the odd-numbered year and ending on January 15 of the even-numbered year.

(B) The period beginning November 1 of the odd-numbered year and ending on February 15 of the even-numbered year.

(C) The period beginning December 1 of the odd-numbered year and ending on March 15 of the even-numbered year.

(D) The period beginning January 1 of the even-numbered year and ending on April 15 of the even-numbered year.

(E) The period beginning February 1 of the even-numbered year and ending on May 15 of the even-numbered year.

Sec. 2. 17 V.S.A. § 2982 is amended to read:

§ 2982. FILING OF VERMONT CAMPAIGN FINANCE DECLARATION AND AFFIDAVIT

(a) A candidate for the office of Governor or Lieutenant Governor who intends to seek Vermont campaign finance grants from the Secretary of State Services Fund shall file:

(1) a declaration of his or her chosen Vermont campaign finance qualification period on or before the date on which that chosen period begins; and

(2) a Vermont campaign finance affidavit on or before the date on ~~or before which primary petitions must be filed, whether the candidate seeks to enter a party primary or is an independent candidate~~ which his or her chosen Vermont campaign finance qualification period ends.

(b) The Secretary of State shall prepare ~~a~~ the Vermont campaign finance declaration and affidavit ~~form~~ forms described in this section, informational materials on procedures and financial requirements, and notification of the penalties for violation of this subchapter.

(c)(1) The Vermont campaign finance affidavit shall set forth the conditions of receiving grants under this subchapter and provide space for the candidate to agree that he or she will abide by such conditions and all expenditure and contribution limitations, reporting requirements, and other provisions of this chapter.

* * *

(3) The affidavit shall also contain a list of all the candidate's qualifying contributions together with the name and town of residence of the contributor and the date each contribution was made.

* * *

Sec. 3. 17 V.S.A. § 2983 is amended to read:

§ 2983. VERMONT CAMPAIGN FINANCE GRANTS; CONDITIONS

(a) A person shall not be eligible for Vermont campaign finance grants if~~,~~:

(1) prior to ~~February 15 of the general election year during any two-year general election cycle~~ his or her chosen Vermont campaign finance qualification period, he or she becomes a candidate by announcing that he or she seeks an elected position as Governor or Lieutenant Governor or by accepting contributions totaling $2,000.00 or more or by making expenditures totaling $2,000.00 or more; or

(2) except for the contributions permitted under subdivision (1) of this subsection, prior to accepting any Vermont campaign finance grant, he or she solicits or accepts any contributions, other than qualifying contributions.

(b) A candidate who accepts Vermont campaign finance grants shall:

(1)(A) ~~not~~ Not solicit, accept, or expend any contributions except qualifying contributions, Vermont campaign finance grants, and contributions authorized under section 2985 of this chapter, which contributions may be solicited, accepted, or expended only in accordance with the provisions of this subchapter~~;~~.

(B) For the purposes of this subdivision (1), notwithstanding the provisions of subdivision 2944(c)(1) of this chapter, an expenditure described in that subdivision that is made by a political party that is associated with the candidate shall not be presumed to be a related expenditure made on behalf of the candidate.

(2) ~~deposit~~ Deposit all qualifying contributions, Vermont campaign finance grants, and any contributions accepted in accordance with the provisions of section 2985 of this chapter in a federally insured noninterest-bearing checking account~~; and~~.

(3) ~~not~~ Not later than 40 days after the general election, deposit in the Secretary of State Services Fund, after all permissible expenditures have been paid, the balance of any amounts remaining in the account established under subdivision (2) of this subsection.

Sec. 4. 17 V.S.A. § 2984 is amended to read:

§ 2984. QUALIFYING CONTRIBUTIONS

(a) In order to qualify for Vermont campaign finance grants, a candidate for the office of Governor or Lieutenant Governor shall obtain during ~~the~~ his or her chosen Vermont campaign finance qualification period the following amount and number of qualifying contributions for the office being sought:

(1) for Governor, a total amount of no less than $35,000.00 collected from no fewer than 1,500 qualified individual contributors making a contribution of no more than $50.00 each; or

(2) for Lieutenant Governor, a total amount of no less than $17,500.00 collected from no fewer than 750 qualified individual contributors making a contribution of no more than $50.00 each.

* * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on January 1, 2017.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the bill be amended as recommended by the Committee on Government Operations?, Senator Kitchel moved that the bill be ordered to lie.

Which was agreed to.

Senator Campbell Assumes the Chair

Bill Amended; Third Reading Ordered

S. 224.

Senator Cummings, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to warranty obligations of equipment dealers and suppliers.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND INTENT

(a) The General Assembly finds:

(1) Vermont has long relied on economic activity relating to working farms and forestland in the State. These working lands, and the people who work the land, are part of the State's cultural and ecological heritage, and Vermont has made major policy and budget commitments in recent years in support of working lands enterprises. Farm and forest enterprises need a robust system of infrastructure to support their economic and ecological activities, and that infrastructure requires a strong economic base consisting of dealers, manufacturers, and repair facilities. Initiatives to help strengthen farm and forest working land infrastructure are in the best interest of the State.

(2) Snowmobiles and all-terrain vehicles have a significant economic impact in the State, including the distribution and sale of these vehicles, use by residents, ski areas, and emergency responders, as well as tourists that come to enjoy riding snowmobiles and all-terrain vehicles in Vermont. It is in the best interest of the State to ensure that Vermont consumers who want to purchase snowmobiles and all-terrain vehicles have access to a competitive marketplace and a strong network of dealers, suppliers, and repair facilities in the State.

(3) The distribution and sale of equipment, snowmobiles, and all-terrain vehicles within this State vitally affects the general economy of the State and the public interest and the public welfare, and in order to promote the public interest and the public welfare, and in the exercise of its police power, it is necessary to regulate equipment, snowmobile, and all-terrain vehicle suppliers

and their representatives, and to regulate dealer agreements issued by suppliers who are doing business in this State, in order to protect and preserve the investments and properties of the citizens of this State.

(4) There continues to exist an inequality of bargaining power between equipment, snowmobile, and all-terrain vehicle suppliers and the independent dealer network. This inequality of bargaining power enables equipment, snowmobile, and all-terrain vehicle suppliers to compel dealers to execute dealer agreements, related contracts, and addenda that contain terms and conditions that would not routinely be agreed to by the equipment, snowmobile, and all-terrain vehicle dealer if this inequality did not exist. It therefore is in the public interest to enact legislation to prevent unfair or arbitrary treatment of equipment, snowmobile, and all-terrain vehicle dealers by equipment, snowmobile, and all-terrain vehicle suppliers. It is also in the public interest that Vermont consumers, municipalities, businesses, and others that purchase equipment, snowmobiles, and all-terrain vehicles in Vermont have access to a robust independent dealer network to obtain competitive prices when purchasing these items and to obtain warranty, recall, or other repair work.

(b) It is the intent of the General Assembly that this act be liberally construed in order to achieve its purposes.

Sec. 2. 9 V.S.A. chapter 107 is amended to read:

CHAPTER 107. EQUIPMENT AND MACHINERY DEALERSHIPS

§ 4071. DEFINITIONS

As used in this chapter:

(1) "Current net price" means the price listed in the supplier's price list or ~~catalog~~ catalogue in effect at the time the dealer agreement is terminated, less any applicable discounts allowed.

(2)(A) "Dealer" means a person~~, corporation, or partnership~~ primarily engaged in the business of retail sales of ~~farm and utility tractors, farm implements, farm machinery, forestry equipment, industrial equipment, utility equipment, yard and garden equipment, attachments, accessories, and repair parts~~ inventory. ~~Provided however, "dealer" shall~~

(B) "Dealer" does not include a "single line dealer," a person primarily engaged in the retail sale and service of industrial, forestry, and construction equipment~~. "Single line dealer" means a person, partnership or corporation~~ who:

~~(A)~~(i) has purchased 75 percent or more of ~~the dealer's total new product~~ his or her new inventory from a single supplier; and

~~(B)~~(ii) has a total annual average sales volume for the previous three years in excess of ~~$15~~ $100 million for the entire territory for which the dealer is responsible.

(3) "Dealer agreement" means a written or oral ~~contract or~~ agreement between a dealer and a ~~wholesaler, manufacturer, or distributor~~ supplier by which the supplier gives the dealer ~~is granted~~ the right to sell or distribute goods or services or to use a trade name, trademark, service mark, logotype, or advertising or other commercial symbol.

(4) ~~"Inventory" means farm, utility, forestry, or industrial equipment, implements, machinery, yard and garden equipment, attachments, or repair parts. These terms do not include heavy construction equipment.~~

(A) "Inventory" means:

(i) farm, utility, forestry, yard and garden, or industrial:

(I) tractors;

(II) equipment;

(III) implements;

(IV) machinery;

(V) attachments;

(VI) accessories; and

(VII) repair parts;

(ii) snowmobiles, as defined in 23 V.S.A. § 3201(5); and

(iii) all-terrain vehicles, as defined in 23 V.S.A. § 3801(1).

(B) "Inventory" does not include heavy construction equipment.

(5) "Net cost" means the price the dealer paid the supplier for the inventory, less all applicable discounts allowed, plus the amount the dealer paid for freight costs from the supplier's location to the dealer's location. In the event of termination of a dealer agreement by the supplier, "net cost" shall include the reasonable cost of assembly or disassembly performed by a dealer.

(6) "Supplier" means a wholesaler, manufacturer, or distributor of inventory ~~as defined in this chapter~~ who enters into a dealer agreement with a dealer.

(7) "Termination" of a dealer agreement means the cancellation, nonrenewal, or noncontinuance of the agreement.

§ 4072. ~~NOTICE OF TERMINATION OF DEALER AGREEMENTS~~

~~(a) Notwithstanding any agreement to the contrary, prior to the termination of a dealer agreement, a supplier shall notify the dealer of the termination not less than 120 days prior to the effective date of the termination. No supplier may terminate, cancel, or fail to renew a dealership agreement without cause. "Cause" means failure by an equipment dealer to comply with the requirements imposed upon the equipment dealer by the dealer agreement, provided the requirements are not substantially different from those requirements imposed upon other similarly situated equipment dealers in this State.~~

~~(b) The supplier may immediately terminate the agreement at any time upon the occurrence of any of the following events which in addition to the above definition of cause, are also cause for termination, cancellation, or failure to renew a dealership agreement:~~

~~(1) the filing of a petition for bankruptcy or for receivership either by or against the dealer;~~

~~(2) the making by the dealer of an intentional and material misrepresentation as to the dealer's financial status;~~

~~(3) any default by the dealer under a chattel mortgage or other security agreement between the dealer and the supplier;~~

~~(4) the commencement of voluntary or involuntary dissolution or liquidation of the dealer if the dealer is a partnership or corporation;~~

~~(5) a change or additions in location of the dealer's place of business as provided in the agreement without the prior written approval of the supplier; or~~

~~(6) withdrawal of an individual proprietor, partner, major shareholder, the involuntary termination of the manager of the dealership, or a substantial reduction in the interest of a partner or major shareholder without the prior written consent of the supplier.~~

~~(c) Unless there is an agreement to the contrary, a dealer who intends to terminate a dealer agreement with a supplier shall notify the supplier of that intent not less than 120 days prior to the effective date of termination.~~

~~(d) Notification required by this section shall be in writing and shall be made by certified mail or by personal delivery and shall contain:~~

~~(1) a statement of intention to terminate the dealer agreement;~~

~~(2) a statement of the reasons for the termination; and~~

~~(3) the date on which the termination shall be effective.~~

TERMINATION OF DEALER AGREEMENT

(a) Requirements for notice.

(1) A person shall provide a notice required in this section by certified mail or by personal delivery.

(2) A notice shall be in writing and shall include:

(A) a statement of intent to terminate the dealer agreement;

(B) a statement of the reasons for the termination, including specific reference to one or more requirements of the dealer agreement that serve as the basis for termination, if applicable; and

(C) the effective date of termination.

(b) Termination by a supplier for cause.

(1) In this subsection, "cause" means the failure of a dealer to meet one or more requirements of a dealer agreement, provided that the requirement is reasonable, justifiable, and substantially the same as requirements imposed on similarly situated dealers in this State.

(2) A supplier shall not terminate a dealer agreement except for cause.

(3) To terminate a dealer agreement for cause, a supplier shall deliver a notice of termination to the dealer at least 120 days before the effective date of termination.

(4) A dealer has 60 days from the date it receives a notice of termination to meet the requirements of the dealer agreement specified in the notice.

(5) If a dealer meets the requirements of the dealer agreement specified in the notice within the 60-day period, the dealer agreement does not terminate pursuant to the notice of termination.

(c) Termination by a supplier for failure to meet reasonable marketing or market penetration requirements.

(1) Notwithstanding subsection (b) of this section, a supplier shall not terminate a dealer agreement for failure to meet reasonable marketing or market penetration requirements except as provided in this subsection.

(2) A supplier shall deliver an initial notice of termination to the dealer at least 18 months before the effective date of termination.

(3) After providing an initial notice, the supplier shall work with the dealer in good faith to meet the reasonable marketing or market penetration requirements specified in the notice, including reasonable efforts to provide the dealer with adequate inventory and competitive marketing programs.

(4) If the dealer fails to meet reasonable marketing or market penetration requirements specified in the notice by the end of the 18-month period, the supplier may terminate the dealer agreement by providing a final notice of termination.

(5) A dealer has 90 days from the date it receives a final notice of termination to meet the reasonable marketing or market penetration requirements specified in the notice.

(6) If a dealer meets the reasonable marketing or market penetration requirements specified in the notice within the 90-day period, the dealer agreement does not terminate pursuant to the final notice of termination.

(d) Termination by a supplier upon a specified event. A supplier may terminate a dealer agreement if one of the following events occurs:

(1) A person files a petition for bankruptcy or for receivership on behalf of or against the dealer.

(2) The dealer makes an intentional and material misrepresentation regarding his or her financial status.

(3) The dealer defaults on a chattel mortgage or other security agreement between the dealer and the supplier.

(4) A person commences the voluntary or involuntary dissolution or liquidation of a dealer organized as a business entity.

(5) Without the prior written consent of the supplier:

(A) The dealer changes the business location specified in the dealer agreement or adds an additional dealership of the supplier's same brand.

(B) An individual proprietor, partner, or major shareholder withdraws from, or substantially reduces his or her interest in, the dealer.

(C) The dealer terminates a manager of the dealer.

(e) Termination by a dealer. Unless a provision of a dealer agreement provides otherwise, a dealer may terminate the dealer agreement by providing a notice of termination to the supplier at least 120 days before the effective date of termination.

* * *

§ 4074. REPURCHASE TERMS

(a)(1) Within 90 days from receipt of the written request of the dealer, a supplier under the duty to repurchase inventory pursuant to section 4073 of this title may examine any books or records of the dealer to verify the eligibility of any item for repurchase.

(2) Except as otherwise provided in this chapter, the supplier shall repurchase from the dealer the following items that the dealer previously purchased from the supplier, or other qualified vendor approved by the supplier, that are in the possession of the dealer on the date of termination of the dealer agreement:

(A) ~~all~~ inventory ~~previously purchased from the supplier in possession of the dealer on the date of termination of the dealer agreement~~; and

(B) required signage, special tools, books, manuals, supplies, data processing equipment, and software ~~previously purchased from the supplier or other qualified vendor approved by the supplier in the possession of the dealer on the date of termination of the dealer agreement~~.

(b) The supplier shall pay the dealer:

(1) 100 percent of the net cost of all new and undamaged and complete ~~farm and utility tractors, utility equipment, forestry equipment, industrial equipment, farm implements, farm machinery, yard and garden equipment, attachments, and accessories~~ inventory, other than repair parts, purchased from the supplier within the 30-month period preceding the date of termination, less a reasonable allowance for deterioration attributable to weather conditions at the dealer's location.

(2) 90 percent of the current net prices of all new and undamaged repair parts.

(3) 85 percent of the current net prices of all new and undamaged superseded repair parts.

(4) 85 percent of the latest available published net price of all new and undamaged noncurrent repair parts.

(5) Either the fair market value, or assume the lease responsibilities of any specific data processing hardware that the supplier required the dealer to purchase to satisfy the reasonable requirements of the dealer agreement, including computer systems equipment and software required and approved by the supplier to communicate with the supplier.

(6) ~~Repurchase at~~ 75 percent of the net cost of specialized repair tools, signage, books and supplies previously purchased, pursuant to requirements of the supplier and held by the dealer on the date of termination. Specialized repair tools must be unique to the supplier's product line, must be no more than 10 years old, and must be complete and in usable condition.

(7) ~~Repurchase at average~~ Average as-is value shown in current industry guides~~,~~ for dealer-owned rental fleet financed by the supplier or its finance subsidiary, provided the equipment was purchased from the supplier within 30 months of the date of termination.

(c) The party that initiates the termination of the dealer agreement shall pay the cost of the return, handling, packing, and loading of the inventory. If the termination is initiated by the supplier, the supplier shall reimburse the dealer five percent of the net parts return credited to the dealer as compensation for picking, handling, packing, and shipping the parts returned to the supplier.

(d) Payment to the dealer required under this section shall be made by the supplier not later than 45 days after receipt of the inventory by the supplier. A penalty shall be assessed in the amount of daily interest at the current New York prime rate plus three percent of any outstanding balance over the required 45 days. The supplier shall be entitled to apply any payment required under this section to be made to the dealer as a setoff against any amount owed by the dealer to the supplier.

* * *

§ 4077a. ~~PROHIBITED ACTS~~

~~No supplier shall:~~

~~(1) coerce any dealer to accept delivery of any equipment, parts, or accessories therefor, which such dealer has not voluntarily ordered, except that a supplier may require a dealer to accept delivery of equipment, parts or accessories that are necessary to maintain equipment generally sold in the dealer's area of responsibility, and a supplier may require a dealer to accept delivery of safety-related equipment, parts, or accessories pertinent to equipment generally sold in the dealer's area of responsibility;~~

~~(2) condition the sale of any equipment on a requirement that the dealer also purchase any other goods or services, but nothing contained in this chapter shall prevent the supplier from requiring the dealer to purchase all parts reasonably necessary to maintain the quality of operation in the field of any equipment used in the trade area;~~

~~(3) coerce any dealer into a refusal to purchase the equipment manufactured by another supplier; or~~

~~(4) discriminate in the prices charged for equipment of like grade and quality sold by the supplier to similarly situated dealers, but nothing contained in this chapter shall prevent differentials which make only due allowance for a difference in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such equipment is sold or delivered by the supplier.~~

PROHIBITED ACTS

(a) A supplier shall not coerce or attempt to coerce a dealer to accept delivery of inventory that the dealer has not voluntarily ordered, except inventory that is:

(1) necessary to maintain inventory generally sold in the dealer's area of responsibility; or

(2) safety-related and pertinent to inventory generally sold in the dealer's area of responsibility.

(b) A supplier shall not condition the sale of inventory on a requirement that the dealer also purchase any other goods or services, provided that a supplier may require a dealer to purchase parts reasonably necessary to maintain inventory used in the dealer's area of responsibility.

(c)(1) A supplier shall not prevent, coerce, or attempt to coerce a dealer from investing in, or entering into an agreement for the sale of, a competing product line or make of inventory.

(2) A supplier shall not require, coerce, or attempt to coerce a dealer to provide a separate facility or personnel for a competing product line or make of inventory.

(3) Subdivisions (1)–(2) of this subsection do not apply unless a dealer:

(A) maintains a reasonable line of credit for each product line or make of inventory;

(B) maintains the principal management of the dealer; and

(C) remains in substantial compliance with the supplier's reasonable facility requirements, which shall not include a requirement to provide a separate facility or personnel for a competing product line or make of inventory.

(d) A supplier shall not discriminate in the prices it charges for inventory of like grade and quality it sells to similarly situated dealers, provided that a supplier may use differentials that allow for a difference in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which the supplier sells or delivers the inventory.

(e) A supplier shall not change the area of responsibility specified in a dealer agreement without good cause, which for purposes of this subsection includes changes in the dealer's vehicle or warranty registration pattern, demographics, and geographic barriers.

§ 4078. WARRANTY OBLIGATIONS

(a) A supplier shall:

(1) specify in writing a dealer's reasonable obligation to perform warranty service on the supplier's inventory;

(2) provide the dealer a schedule of reasonable compensation for warranty service, including amounts for diagnostic work, parts, labor, and the time allowance for the performance of warranty service; and

(3) compensate the dealer pursuant to the schedule of compensation for the warranty service the supplier requires it to perform.

(b) Time allowances for the diagnosis and performance of warranty service shall be reasonable and adequate for the service to be performed by a dealer that is equipped to complete the requirements of the warranty service.

(c) The hourly rate paid to a dealer shall not be less than the rate the dealer charges to customers for nonwarranty service.

(d) A supplier shall compensate a dealer for parts used to fulfill warranty and recall obligations of warranty service at a rate not less than the price the dealer actually paid the supplier for the parts plus 20 percent.

(e)(1) Whenever a supplier and a dealer enter into an agreement providing consumer warranties, the supplier shall pay any warranty claim made for warranty parts and service within 30 days after its receipt and approval.

(2) The supplier shall approve or disapprove a warranty claim within 30 days after its receipt.

(3) If a claim is not specifically disapproved in writing within 30 days after its receipt, it shall be deemed to be approved and payment shall be made by the supplier within 30 days after its receipt.

(f) A supplier violates this section if it:

(1) fails to perform its warranty obligations;

(2) fails to include in written notices of factory recalls to machinery owners and dealers the expected date by which necessary parts and equipment will be available to dealers for the correction of such defects; or

(3) fails to compensate a dealer for repairs required by a recall.

(g) A supplier shall not:

(1) impose an unreasonable requirement in the process a dealer must follow to file a warranty claim; or

(2) impose a surcharge or fee, or otherwise increase the prices or charges to a dealer, in order to recover the additional costs the supplier incurs from complying with the provisions of this section.

§ 4079. REMEDIES

(a) A person damaged as a result of a violation of this chapter may bring an action against the violator in a Vermont court of competent jurisdiction for damages, together with the actual costs of the action, including reasonable attorney's fees, injunctive relief against unlawful termination~~, cancellation, nonrenewal,~~ or substantial change of competitive circumstances, and such other relief as the Court deems appropriate.

(b) A provision in a dealer agreement that purports to deny access to the procedures, forums, or remedies provided by the laws of this State is void and unenforceable.

(c) ~~Nothing contained in this chapter may prohibit~~ Notwithstanding subsection (b) of this section, a dealer agreement may include a provision for binding arbitration of disputes ~~in an agreement~~. Any arbitration shall be consistent with the provisions of this chapter and 12 V.S.A. chapter 192, and the place of any arbitration shall be in the county in which the dealer's principal place of business is maintained in this State.

* * *

Sec. 3. APPLICABILITY TO EXISTING DEALER AGREEMENTS

Notwithstanding 1 V.S.A. § 214, for a dealer agreement, as defined in 9 V.S.A. § 4071, that is in effect on or before July 1, 2016, the provisions of this act shall apply on July 1, 2017.

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Adjournment

On motion of Senator Baruth, the Senate adjourned until ten o'clock and twenty-five minutes in the morning.

THURSDAY, MARCH 17, 2016

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Joint Assembly

At ten o'clock and thirty minutes in the morning, the hour having arrived for the meeting of the two Houses in Joint Assembly pursuant to:

J.R.S. 43. Joint resolution providing for a Joint Assembly to vote on the retention of four Superior Judges.

The Senate repaired to the hall of the House.

Having returned therefrom, at eleven o'clock and twenty-nine minutes in the morning, the President assumed the Chair.

Message from the House No. 34

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 308. An act relating to limiting the liability of VAST arising from snowmobile operation outside the Statewide Snowmobile Trail System.

H. 529. An act relating to State aid for school construction repayment obligations.

H. 570. An act relating to hunting, fishing, and trapping.

H. 852. An act relating to State lands.

In the passage of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 46. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Adjournment

On motion of Senator Mazza, the Senate adjourned until one o’clock in the afternoon.

Called to Order

The Senate was called to order by the President.

Message from the Governor
Appointments Referred

A message was received from the Governor, by Susan Allen, Secretary of Civil and Military Affairs, submitting the following appointments, which were referred to committees as indicated:

Harris, Michael J. of Williston - Superior Judge, - from March 11, 2016, to February 28, 2022.

To the Committee on Judiciary.

Pacht, John of Hinesburg - Superior Judge, - from April 1, 2016, to February 28, 2022.

To the Committee on Judiciary.

Senate Resolution Referred

S.R. 9.

Senate resolution of the following title was offered, read the first time and is as follows:

By Senator Lyons, Ashe, Ayer, Balint, Baruth, Bray, Campbell, Campion, Cummings, MacDonald, McCormack, Mullin, Pollina, Rodgers, Sirotkin, Starr, White, and Zuckerman,

S.R. 9. Senate resolution relating to the proposed Trans-Pacific Partnership Agreement.

Whereas, U.S. trade deals for the past 25 years have incorporated rules that skew benefits, requiring working families to bear the brunt of such policies, and

Whereas, the Economic Policy Institute (EPI) reported that, from the date of China's entry into the World Trade Organization in 2001 through September 30, 2013, the trade deficit with China had cost 2.7 million American jobs, and

Whereas, EPI also reported that, as of the United States–Korea Free Trade Agreement's third anniversary in March 2015, the loss of 75,000 American jobs was attributable to the agreement, and

Whereas, on the North American Free Trade Agreement's (NAFTA) 20th anniversary in 2014, Public Citizen reported that NAFTA had cost one million U.S. jobs, and

Whereas, more broadly, according to the U.S. census, in 2000, there were 16,845,612 manufacturing jobs in the country, but, in 2014, the number had declined to only 11,021,476, and

Whereas, bad trade policies have undermined the American manufacturing base and threaten the nation's economic and national security, and

Whereas, the relocation of manufacturing and service jobs offshore deprives local and state governments of sorely needed revenue and jeopardizes the livelihoods of millions of Americans, and

Whereas, under NAFTA-style trade rules, the U.S. annual trade deficit, according to the U.S. census, has increased dramatically, from $70.3 billion in 1993, the year before NAFTA went into effect, to $531.5 billion in 2015, and

Whereas, the disproportionate voice of powerful global corporations in the formation of U.S. free-trade agreements has advanced an agenda that undermines the public interest and threatens democracy, and

Whereas, NAFTA and other U.S. trade deals include a special legal right for foreign investors, known as an "investor-state dispute settlement" (ISDS), allowing foreign firms to bypass state and federal courts and instead take legal disputes to international tribunals, and

Whereas, in October 2015, 12 nations, including the United States, agreed to the text of the Trans-Pacific Partnership (TPP), which is the multilateral trade agreement with the most nations as signatories other than the World Trade Organization, and

Whereas, U.S. accession to the accord still requires U.S. House and Senate approval, and

Whereas, promoting economic growth with equity in Vermont requires reforms to the trade negotiation process that ensure that voices of workers, farmers, small businesses, families, and communities are heard, and

Whereas, TPP has been negotiated in secret, effectively shutting out the negotiating process from state and local governments, and

Whereas, given congressional enactment of fast-track trade negotiating authority, states, localities, and their citizens will have no opportunity to correct shortcomings in the TPP, *now therefore be it*

Resolved by the Senate:

That the Senate of the State of Vermont urges Congress to oppose the Trans-Pacific Partnership and any similar trade deals if it fails to restructure the misguided and failed policies of the past, *and be it further*

Resolved: That the Senate of the State of Vermont requests the Vermont Congressional Delegation to support new trade deals, including the Trans-Pacific Partnership, only if they will:

Exclude investor-to-state dispute settlement and other provisions that favor foreign companies over domestic ones and that undermine public choices;

Ensure that countries cannot undercut U.S.-based producers with weaker labor and environmental laws and enforcement;

Ensure that the United States will engage in robust enforcement of trade rules, including labor and environmental rules;

Include strong rule-of-origin language to promote economic growth and job creation in the United States;

Promote high standards of protection for workplaces, products, and natural resources rather than a race to the bottom; and

Put the interests of people and the planet over the interests of private profit, *and be it further*

Resolved: That the Secretary of the Senate be directed to send a copy of this resolution to the Vermont Congressional Delegation.

Thereupon, the President, in his discretion, treated the joint resolution as a bill and referred it to the Committee on Economic Development, Housing and General Affairs.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 308.

An act relating to limiting the liability of VAST arising from snowmobile operation outside the Statewide Snowmobile Trail System.

To the Committee on Transportation.

H. 529.

An act relating to State aid for school construction repayment obligations.

To the Committee on Institutions.

H. 570.

An act relating to hunting, fishing, and trapping.

To the Committee on Natural Resources and Energy.

H. 852.

An act relating to State lands.

To the Committee on Natural Resources and Energy.

Bill Amended; Third Reading Ordered

S. 257.

Senator Balint, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to residential rental agreements.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 9 V.S.A. § 4451 is amended to read:

§ 4451. DEFINITIONS

As used in this chapter:

* * *

(9) "Sublease" means a rental agreement, written or oral, embodying terms and conditions concerning the use and occupancy of a dwelling unit and premises between two tenants, a sublessor and a sublessee.

(10) "Tenant" means a person entitled under a rental agreement to occupy a residential dwelling unit to the exclusion of others.

Sec. 2. 9 V.S.A. § 4452 is amended to read:

§ 4452. EXCLUSIONS

Unless created to avoid the application of this chapter, this chapter does not apply to any of the following:

* * *

(7) transient residence in a campground, which for the purposes of this chapter means any property used for seasonal or short-term vacation or recreational purposes on which are located cabins, tents, or lean-tos, or campsites designed for temporary set-up of portable or mobile camping, recreational, or travel dwelling units, including tents, campers, and recreational vehicles such as motor homes, travel trailers, truck campers, and van campers; ~~or~~

(8) transient occupancy in a hotel, motel, or lodgings during the time the occupant is a recipient of General Assistance or Emergency Assistance

temporary housing assistance, regardless of whether the occupancy is subject to a tax levied under 32 V. S.A. chapter 225; or

(9) occupancy of a dwelling unit without right or permission by a person who is not a tenant.

Sec. 3. 9 V.S.A. § 4456b is added to read:

§ 4456b. SUBLEASES; LANDLORD AND TENANT RIGHTS AND OBLIGATIONS

(a)(1) A landlord may condition or prohibit subleasing a dwelling unit under the terms of a written rental agreement, and may require a tenant to provide actual notice of the name and contact information of any sublessee occupying the dwelling unit.

(2) If the terms of a written rental agreement prohibit subleasing the dwelling unit, the landlord or tenant may give a person who is not a tenant and is occupying the dwelling unit without right or permission notice against trespass pursuant to 13 V.S.A. § 3705(a). This subdivision (2) shall not be construed to limit the rights and remedies available to a landlord pursuant to this chapter.

(b) In the absence of a written rental agreement, a tenant shall provide the landlord with actual notice of the name and contact information of any sublessee occupying the dwelling unit.

Sec. 4. 13 V.S.A. § 3705 is amended to read:

§ 3705. UNLAWFUL TRESPASS

(a)(1) A person shall be imprisoned for not more than three months or fined not more than $500.00, or both, if, without right or permission, he or she is occupying a dwelling unit for which a written rental agreement has prohibited subleasing pursuant to 9 V.S.A. § 4456b as to which notice against trespass is given, or, without legal authority or the consent of the person in lawful possession, he or she enters or remains on any land or in any place as to which notice against trespass is given. Notice against trespass may be given by:

(A) actual communication by the person in lawful possession or his or her agent or by a law enforcement officer acting on behalf of such person or his or her agent;

* * *

(D) in the case of a dwelling unit for which a written rental agreement has prohibited subleasing pursuant to 9 V.S.A. § 4456b, actual communication by the landlord or his or her agent or by a law enforcement officer acting on behalf of the landlord or his or her agent.

* * *

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Joint Resolution Adopted on the Part of the Senate

J.R.S. 47.

Joint Senate resolution entitled:

Joint resolution expressing appreciation to the National Milk Producers Federation and Vermont's dairy farmers for their phasing out the tail docking of dairy farm animals.

Having been placed on the Calendar for action, was taken up and adopted on the part of the Senate.

Joint Resolution Adopted in Concurrence

Joint House resolution entitled:

J.R.H. 23. Joint resolution authorizing Green Mountain Boys State educational program to use the State House.

Having been placed on the Calendar for action, was taken up.

Thereupon, the resolution was adopted in concurrence.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 91. An act relating to qualifications of judicial officers and judicial selection and retention.

S. 132. An act relating to the prohibition of conversion therapy on minors.

S. 176. An act relating to an income tax credit for home modifications required by a disability or physical hardship.

S. 215. An act relating to the regulation of vision insurance plans.

S. 216. An act relating to prescription drug formularies.

S. 224. An act relating to warranty obligations of equipment dealers and suppliers.

Adjournment

On motion of Senator Campbell, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

FRIDAY, MARCH 18, 2016

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Rick Swanson of Stowe.

Message from the House No. 35

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 571. An act relating to driver's license suspensions, driving with a suspended license, and DUI penalties.

H. 559. An act relating to an exemption from licensure for visiting team physicians.

H. 854. An act relating to timber trespass.

H. 171. An act relating to restrictions on the use of electronic cigarettes.

In the passage of which the concurrence of the Senate is requested.

Rules Suspended; Bill Committed

S. 243.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and Senate bill entitled:

An act relating to combating opioid abuse in Vermont.

Was taken up for immediate consideration.

Thereupon, pending the reading of the reports of the Committee on Health and Welfare and the Committee on Finance, Senator Ashe moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the reports of the Committee on Health and Welfare and the Committee on Finance *intact*,

Which was agreed to.

Senate Resolution Placed on Calendar

S.R. 10.

Senate resolution of the following title was offered, read the first time and is as follows:

By the Committee on Rules,

S.R. 10. Senate resolution relating to adoption of a temporary Rule 44A.

Resolved by the Senate:

That a temporary rule, to be designated Rule 44A, be adopted by the Senate, to read as follows:

Rule 44A. (a) Any bills failing to make the crossover dates of March 11, 2016 and March 18, 2016 shall be referred to the Committee on Rules. This provision shall not apply to the following measures:

(1) The transportation capital bill;

(2) The capital construction bill

(3) The general appropriations bill ("The Big Bill");

(4) The pay bill;

(5) The fees bill.

(b) The Rules Committee may report any bills referred to it for reference to another committee of jurisdiction pursuant to Senate Rule 24.

(c) The Temporary Rule 44A shall expire when the Legislature adjourns sine die.

Thereupon, in the discretion of the President, under Rule 51, the resolution was placed on the Calendar for action the next legislative day.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 171.

An act relating to restrictions on the use of electronic cigarettes.

To the Committee on Health and Welfare.

H. 559.

An act relating to an exemption from licensure for visiting team physicians.

To the Committee on Health and Welfare.

H. 571.

An act relating to driver's license suspensions, driving with a suspended license, and DUI penalties.

To the Committee on Judiciary.

H. 854.

An act relating to timber trespass.

To the Committee on Judiciary.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 174. An act relating to a model State policy for use of body cameras by law enforcement officers.

S. 257. An act relating to residential rental agreements.

Bill Amended; Third Reading Ordered

S. 169.

Senator Sirotkin, for the Committee on Agriculture, to which was referred Senate bill entitled:

An act relating to the Rozo McLaughlin Farm-to-School Program.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 6 V.S.A. chapter 211 is amended to read:

CHAPTER 211. THE ROZO MCLAUGHLIN FARM-TO-SCHOOL PROGRAM

§ 4719. PURPOSE AND STATE GOAL

(a) Purpose. It is the purpose of this chapter to establish a farm-to-school program to:

(1) encourage Vermont residents in developing healthy and lifelong habits of eating nutritious local foods;

(2) maximize use by Vermont schools of fresh and locally grown, produced, or processed food;

(3) work with partners to establish a food, farm, and nutrition education program that educates Vermont students regarding healthy eating habits through the use of educational materials, classes, and hands-on techniques that inform students of the connections between farming and the foods that students consume;

(4) increase the size and stability of direct sales markets available to farmers; and

(5) increase participation of Vermont students in school meal programs by increasing the selection of available foods.

(b) State Farm to School Network goal. It is the goal of the Farm-to-School Program to establish a food system that by 2025:

(1) engages 75 percent of Vermont schools in an integrated food system education program that incorporates community-based learning; and

(2) purchases 50 percent of food from local or regional food sources.

§ 4720. DEFINITIONS

As used in this chapter, "Farm-to-School Program" means an integrated food, farm, and nutrition education program that utilizes community-based learning opportunities to connect schools with nearby farms to provide students with locally produced fresh fruits and vegetables, dairy and protein products, and other nutritious, locally produced foods in school breakfasts, lunches, and snacks; help children develop healthy eating habits; provide nutritional and agricultural education in the classroom, cafeteria, and school community; and improve farmers' incomes and direct access to markets.

§ 4721. LOCAL FOODS GRANT PROGRAM

(a) There is created in the Agency of Agriculture, Food and Markets the Rozo McLaughlin Farm-to-School Program to award local grants for the purpose of helping Vermont schools develop farm-to-school programs that will sustain relationships with local farmers and producers, enrich the educational experience of students, improve the health of Vermont children, and enhance Vermont's agricultural economy.

(b) A school, a school district, a consortium of schools, ~~or~~ a consortium of school districts, or licensed childcare providers may apply to the Secretary of Agriculture, Food and Markets for a grant award to:

(1) fund equipment, resources, training, and materials that will help to increase use of local foods in the School ~~Food Service~~ Nutrition Program;

(2) fund items, including local ~~farm~~ food products, gardening supplies, field trips to farms, and stipends to visiting farmers, that will help teachers to use hands-on educational techniques to teach children about nutrition and farm-to-school connections; and

(3) ~~provide~~ fund professional development and technical assistance, in partnership with the Agency of Education and farm-to-school technical service providers, to help teachers, school nutrition personnel, and members of the farm-to-school community educate students about nutrition and farm-to-school connections and assist schools in developing a farm-to-school program.

(4) fund technical assistance or support strategies to increase participation in federal child nutrition programs that increase viability of sustainable meal programs.

(c) The Secretaries of Agriculture, Food and Markets and of Education and the Commissioner of Health, in consultation with farmers, ~~food service workers~~ school nutrition staff, and educators, and farm-to-school technical service providers jointly shall ~~jointly~~ adopt ~~rules~~ procedures relating to the content of the grant application and the criteria for making awards.

(d) The Secretary shall determine that there is significant interest in the school community before making an award and shall give priority consideration to schools ~~and~~, school districts and licensed child care providers that are developing farm-to-school connections and education that indicate a willingness to make changes to their school or childcare nutrition programs that increase student access and participation and that are making progress toward the implementation of the Vermont ~~nutrition and fitness policy guidelines~~ School Wellness Policy Guidelines developed by the Agency of Agriculture, Food and Markets, the Agency of Education, and the Department of Health, ~~dated November 2005~~ updated in June 2015 or of the successor of these guidelines.

(e) No award shall be greater than $15,000.00.

§ 4722. FARM ASSISTANCE; SECRETARY OF AGRICULTURE, FOOD AND MARKETS

(a) The Secretary of Agriculture, Food and Markets shall work with existing programs and organizations to develop and implement educational opportunities for farmers to help them to increase their markets through selling their products to schools, licensed child care providers, and State government agencies ~~and participating in the federal food commodities program, including the federal Department of Defense Fresh Program, and selling to regulated child care programs participating in the Adult and Child Food Program~~ that operate or participate in child nutrition programs.

(b) The Secretary of Agriculture, Food and Markets shall work with distributors that sell products to schools, licensed child care providers, and State government agencies to increase the availability of local products.

§ 4723. PROFESSIONAL DEVELOPMENT FOR FOOD SERVICE PERSONNEL

(a) The Secretary of Education, in consultation with the Secretary of Agriculture, Food and Markets, the Commissioner of Health, and farm-to-school organizations and partners, shall offer ~~expanded~~ regional training sessions for public school food service and child care personnel and child care resource development specialists ~~as funds are made available~~. Training shall include information about strategies for ~~purchasing~~ procuring, processing, and serving locally grown foods, especially with regard to federal procurement program requirements, as well as information about nutrition, obesity prevention, coping with severe food allergies, and food service operations. The Secretary of Education may use a portion of the funds appropriated for this training session to pay a portion of or all expenses for attendees and to develop manuals or other materials to help in the training.

(b) The Secretary of Education shall ~~train people as funds are made available to~~, with existing programs and organizations, provide training related to procurement of local food and technical assistance to school food service and child care personnel and use a portion of the funds appropriated for this purpose to enable the trained people to provide technical assistance at the school and school district levels.

(c) Training provided under this section shall promote the policies established in the Vermont ~~nutrition and fitness policy guidelines~~ School Wellness Policy Guidelines developed by the Agencies of Agriculture, Food and Markets and of Education and the Department of Health, ~~dated November 2005~~ updated in June 2015, or the guidelines' successor.

§ 4724. ~~LOCAL FOODS COORDINATOR~~ FOOD SYSTEMS ADMINISTRATOR

(a) The position of ~~local food coordinator~~ Food Systems Administrator is established in the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets for the purpose of assisting Vermont producers ~~to increase~~ in increasing their access to commercial markets and institutions, including schools, ~~state~~ licensed child care providers, State and municipal governments, and hospitals.

(b) The duties of the ~~local foods coordinator~~ Food Systems Administrator shall include:

(1) working with institutions, schools, licensed child care providers, distributors, producers, commercial markets, and others to create matchmaking opportunities that increase the number of Vermont institutions that purchase foods grown or produced in Vermont;

(2) coordinating funding and providing support to the farm-to-school and farm-to-institutions programs within the ~~agency of agriculture, food and markets~~ Agency of Agriculture, Food and Markets, and coordinating with interested parties to access funding or create matchmaking opportunities across the supply chain that increase participation in those programs;

(3) encouraging and facilitating ~~the enrollment of state employees~~ State employee access and awareness of opportunities for purchasing local food, including: enrollment in a local community supported agriculture (CSA) organization, purchasing from local farm stands, and participation in a farmers' market;

(4) developing a database of producers and potential purchasers and enhancing the ~~agency's website~~ Agency and partners' ability to improve and support local foods coordination through the use of information technology; and

(5) providing technical support to local communities with their food security efforts.

(c) The ~~local foods coordinator~~ Food Systems Administrator, working with the ~~commissioner of buildings and general services~~ Commissioner of Buildings and General Services pursuant to rules adopted under 29 V.S.A. § 152(14), shall:

(1) encourage and facilitate ~~CSA enrollment~~ awareness of and opportunities to procure healthy local foods by ~~state~~ State employees through the use of approved advertisements and solicitations on ~~state-owned~~ State-owned property; and

(2) implement guidelines for the appropriate use of ~~state~~ State property for employee participation in CSA organizations, including reasonable restrictions on the time, place, and manner of solicitations, advertisements, deliveries, and related activities to ensure the safety and welfare of ~~state~~ State property and its occupants.

(d) The ~~local foods coordinator~~ Food Systems Administrator shall administer a local foods grant program, the purpose of which shall be to provide grants to allow Vermont producers to increase their access to commercial and institutional markets.

Sec. 2. UNIVERSAL MEALS PROGRAM; SCHOOL FUNDING

In addition to any other funds appropriated to the Agency of Agriculture, Food and Markets in fiscal year 2017 for the Farm-to-School Program, there is appropriated to the Farm-to-School Program at the Agency of Agriculture, Food and Markets $80,000.00 for the purpose of executing, operating, and providing grants under 6 V.S.A. § 4721 to assist schools in developing universal meals programs when the schools are eligible for universal meals participation under federal school nutrition programs.

Sec. 3. 16 V.S.A. § 559 is amended to read:

§ 559. PUBLIC BIDS

(a) When the cost exceeds $15,000.00. A school board or supervisory union board shall publicly advertise or invite three or more bids from persons deemed capable of providing items or services if costs are in excess of $15,000.00 for any of the following:

(1) the construction, purchase, lease, or improvement of any school building;

(2) the purchase or lease of any item or items required for supply, equipment, maintenance, repair, or transportation of students; or

(3) a contract for transportation, maintenance, or repair services.

* * *

(e) Application of this section. Any contract entered into or purchase made in violation of the provisions of this section shall be void; provided, however, that:

* * *

(4) nothing in this section shall be construed to prohibit a school board from awarding a school nutrition contract after using any method of bidding or requests for proposals permitted under federal law for award of the contract. Notwithstanding the monetary amount in subsection (a) of this section for which a school board is required to use a method of bidding or request for proposal, a school board is required to use a method of public bidding or request for proposal for purchases made from the nonprofit school food service account for purchases in excess of $25,000.00, unless a municipality sets a lower threshold for purchases from the nonprofit school food service account;

* * *

Sec. 4. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

And that when so amended the bill ought to pass.

Senator Starr, for the Committee on Appropriations, to which the bill was referred, reported that they have considered the same and recommend that the bill be amended as recommended by the Committee on Agriculture with the following amendment thereto:

By striking out Sec. 2 in its entirety.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Agriculture was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Agriculture, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 189.

Senator Ayer, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to foster parents' rights and protections.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FOSTER PARENT WORKING GROUP; REPORT

(a) Creation. There is created a Foster Parent Working Group to recommend legislation, rules, or policies, or any combination thereof, pertaining to rights and protections for foster parents in Vermont.

(b) Membership. The Working Group shall be composed of the following eight members:

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

(2) the Deputy Commissioner for Children and Families' Family Services Division;

(3) the System of Care Manager in the Department for Children and Families' Family Services Division or designee;

(4) a representative of the Vermont Foster and Adoptive Family Association;

(5) a representative of Voices for Vermont's Children;

(6) the Chief Superior Court Judge or designee; and

(7) two fosters parents from different regions of the State, appointed by the Governor.

(c) Powers and duties. The Working Group shall examine the relationship between foster parents, the Department for Children and Families, and the court system to assess whether any laws, rules, or policies should be amended or implemented to better support the work of foster parents, including the following:

(1) access to the Department for Children and Families on evenings and weekends;

(2) access to the Department for Children and Families' records about a particular foster child or foster family;

(3) scheduling court-ordered visits and appointments with the Department for Children and Families;

(4) fear of reprisal for refusal of a placement or raising concerns about the Department for Children and Families or the foster care system; and

(5) any regional differences identified in the State's foster care system.

(d) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Department for Children and Families.

(e) Report. On or before January 15, 2017, the Working Group shall submit a written report to the House Committee on Human Services and the Senate Committee on Health and Welfare with its findings and any proposed changes to law, rule, or policy.

(f) Meetings.

(1) The Commissioner shall call the first meeting of the Working Group to occur on or before September 1, 2016.

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

(3) The Working Group shall cease to exist on January 31, 2017.

(g) Reimbursement. Members of the Working Group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to both per diem compensation

and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than three meetings.

(h) Appropriation. The sum of $1,080.00 is appropriated to the Department for Children and Families from the General Fund in fiscal year 2017 for per diem compensation and reimbursement of expenses for members of the Working Group.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2016.

And that when so amended the bill ought to pass.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported that they have considered the same and recommend that the bill be amended as recommended by the Committee on Health and Welfare with the following amendment thereto:

In Sec. 1, by striking out subsection (h) in its entirety.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Health and Welfare was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Health and Welfare, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 250.

Senator Baruth, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate bill entitled:

An act relating to farm distilleries and Vermont barrel aged maple spirits.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 7 V.S.A. § 2 is amended to read:

§ 2. DEFINITIONS

The following words as used in this title, unless a contrary meaning is required by the context, shall have the following meaning:

* * *

(5) ~~"Cabaret license": a first-class license or first- and third-class licenses where the business is devoted primarily to providing entertainment, dancing, and the sale of alcoholic beverages to the public and not the service of food. The holder of a "cabaret license" shall serve food at all times when open for business and shall have adequate and sanitary space and equipment for preparing and serving food. However, the gross receipts from the sale of food shall be less than the combined receipts from the sales of alcoholic beverages, entertainment, and dancing in the prior reporting year. All laws and regulations pertaining to a first-class license or first- and third-class licenses shall apply to the first-class or first- and third-class cabaret licenses.~~ [Repealed.]

(6) "Caterer's license": a license issued by the Liquor Control Board authorizing the holder of a first-class license or first- and third-class licenses for a ~~cabaret,~~ restaurant~~,~~ or hotel premises to serve malt or vinous beverages, spirits, or fortified wines at a function located on premises other than those occupied by a first-, first- and third-, or second-class licensee to sell alcoholic beverages.

* * *

(15) "Manufacturer's or rectifier's license": a license granted by the Liquor Control Board that permits the holder to manufacture or rectify ~~spirits or~~ malt beverages, or vinous beverages and fortified wines, or spirits and fortified wines. Spirits and fortified wines may be manufactured or rectified by a license holder for export and sale to the Liquor Control Board, ~~or~~ and malt beverages and vinous beverages may be manufactured or rectified by a license holder for export and sale to bottlers or wholesale dealers. This license permits a manufacturer of vinous beverages or fortified wines to receive from another manufacturer licensed in or outside this State bulk shipments of vinous beverages to rectify with the licensee's own product, provided that the vinous beverages or fortified wines produced by a Vermont manufacturer may contain no more than 25 percent imported vinous beverage. The Liquor Control Board may grant to a licensed manufacturer or rectifier of spirits, fortified wines, vinous beverages, or malt beverages a first-class ~~restaurant or cabaret~~ license or a first- and a third-class ~~restaurant or cabaret~~ license permitting the licensee to sell alcoholic beverages to the public only at the manufacturer's premises~~,~~ which for the purposes of a manufacturer of malt beverages, includes up to two licensed establishments that are located on the contiguous real estate of the holder of the manufacturer's license, provided the manufacturer or rectifier owns or has direct control over those establishments. ~~A manufacturer of malt beverages who also holds a first-class restaurant or cabaret license may serve to a customer malt beverage by the glass, not to exceed eight glasses at one time and not to exceed four ounces in each glass.~~ The Liquor Control Board

may grant to a licensed manufacturer or a rectifier of malt beverages a second-class license permitting the licensee to sell alcoholic beverages to the public anywhere on the manufacturer's or rectifier's premises. A licensed manufacturer or rectifier ~~of vinous beverages~~ may serve, with or without charge, at an event held on the premises of the licensee or ~~the vineyard property~~ at a location on the contiguous real estate of the licensee, spirits, fortified wines, vinous beverages, and malt beverages, provided the licensee gives the Department written notice of the event, including details required by the Department, at least five days before the event. Any beverages not manufactured by the licensee and served at the event shall be purchased on invoice from a licensed manufacturer or wholesale dealer or the Liquor Control Board.

* * *

(27) "Special events permit": a permit granted by the Liquor Control Board permitting a ~~person holding a manufacturer's or rectifier's license~~ licensed manufacturer or rectifier to sell by the glass or by unopened bottle spirits, fortified wines, malt beverages, or vinous beverages manufactured or rectified by the license holder at an event open to the public that has been approved by the local licensing authority. For the purposes of tasting only, the permit holder may distribute, with or without charge, beverages manufactured by the permit holder by the glass no more than two ounces per product and eight ounces total of malt beverages or vinous beverages and no more than one ounce in total of spirits or fortified wines to each individual. No more than 104 special events permits may be issued to a ~~holder of a manufacturer's or rectifier's license~~ licensed manufacturer or rectifier during a year. A special ~~event~~ events permit shall be valid for the duration of each public event or four days, whichever is shorter. Requests for a special events permit, accompanied by the fee as required by subdivision 231(13) of this title, shall be submitted to the Department of Liquor Control at least five days prior to the date of the event. Each manufacturer or rectifier planning to attend a single special event under this permit may be listed on a single permit. However, each attendance at a special event shall count toward the manufacturer's or rectifier's annual limit of 104 ~~special event permit limitation~~ special events permits.

(28) "Fourth-class license" or "farmers' market license": the license granted by the Liquor Control Board permitting a ~~manufacturer or rectifier of malt beverages, vinous beverages, fortified wines, or spirits~~ licensed manufacturer or rectifier to sell by the unopened container and distribute by the glass with or without charge, beverages manufactured by the licensee. No more than a combined total of ten fourth-class and farmers' market licenses may be granted to a licensed manufacturer or rectifier. At only one fourth-class license location, a ~~manufacturer or rectifier of vinous beverages,~~

~~malt beverages, fortified wines, or spirits~~ licensed manufacturer or rectifier may sell by the unopened container and distribute by the glass, with or without charge, vinous beverages, malt beverages, fortified wines, or spirits produced by no more than five additional manufacturers or rectifiers, provided these beverages are purchased on invoice from the manufacturer or rectifier. A manufacturer or rectifier ~~of vinous beverages, malt beverages, fortified wines, or spirits~~ may sell its product to no more than five additional manufacturers or rectifiers. A fourth-class licensee may distribute by the glass no more than two ounces of malt beverages or vinous beverages with a total of eight ounces to each retail customer and no more than one-quarter ounce of spirits or fortified wine with a total of one ounce to each retail customer for consumption on the manufacturer's premises or at a farmers' market. A ~~fourth class~~ fourth-class licensee may distribute by the glass up to four mixed drinks containing a combined total of no more than one ounce of spirits or fortified wine to each retail customer for consumption only on the manufacturer's premises. A farmers' market license is valid for all dates of operation for a specific farmers' market location.

* * *

(36) "Outside consumption permit": a permit granted by the Liquor Control Board allowing the holder of a first-class ~~or~~, first- and third-class ~~license holder and~~, or fourth-class license ~~holder~~ to allow for consumption of alcohol in a delineated outside area.

* * *

(40) "Retail delivery permit": a permit granted by the Liquor Control Board that permits a second-class licensee to deliver malt beverages or vinous beverages sold by the licensee to the purchaser at a location in Vermont.

(41) "Destination resort master license": a license granted by the Liquor Control Board pursuant to section 472 of this title permitting a destination resort to designate licensed caterers and commercial caterers that will be permitted to cater individual events within the boundaries of the resort without being required to obtain a request to cater permit for each individual event. For purposes of a destination resort master license, a "destination resort" is a resort that contains at least 100 acres of land, offers at least 50 units of sleeping accommodations, offers food and beverage service to the public for consideration, and has related sports and recreational facilities for the convenience or enjoyment of its guests.

Sec. 2. 7 V.S.A. § 67 is amended to read:

§ 67. ALCOHOLIC BEVERAGE TASTINGS; PERMIT; PENALTIES

* * *

(d) Promotional alcoholic beverage tasting:

(1) At the request of a holder of a first- or second-class license, a holder of a manufacturer's, rectifier's, or wholesale dealer's license may distribute without charge to the first- or second-class licensee's management and staff, provided they are of legal drinking age and are off duty for the rest of the day, two ounces per person of vinous or malt beverages for the purpose of promoting the beverage. At the request of a holder of a third-class license, a manufacturer or rectifier of spirits or fortified wines may distribute without charge to the third-class licensee's management and staff, provided they are of legal drinking age and are off duty for the rest of the day, one-quarter ounce of each beverage and no more than a total of one ounce to each individual for the purpose of promoting the beverage. No permit is required under this subdivision, but written notice of the event shall be provided to the Department of Liquor Control at least ~~five days~~ two days prior to the date of the tasting.

* * *

(e) Tastings for product quality assurance. A licensed manufacturer or rectifier may distribute to its management and staff who are directly involved in the production of the licensee's products, provided they are of legal drinking age and at the licensed premises, samples of the licensee's products for the purpose of assuring the quality of the products. Each sample of vinous or malt beverages shall be no larger than two ounces, and each sample of spirits or fortified wines shall be no larger than one-quarter ounce. No permit is required under this subsection.

(f) Age and training of servers. No individual who is under ~~the age of~~ 18 years of age or who has not received training as required by the Department may serve alcoholic beverages at an event under this section.

~~(f)~~(g) Penalties. The holder of a permit issued under this section that provides alcoholic beverages to an underage individual or permits an individual under ~~the age of~~ 18 years of age to serve alcoholic beverages at a beverage tasting event under this section shall be fined not less than $500.00 nor more than $2,000.00 or imprisoned not more than two years, or both.

Sec. 3. 7 V.S.A. § 70 is added to read:

§ 70. MANUFACTURERS OF MALT BEVERAGES; TRANSFER OF MALT BEVERAGES BETWEEN LICENSED LOCATIONS

(a) A licensed manufacturer of malt beverages may transfer malt beverages to a second licensed manufacturer of malt beverages without payment of taxes pursuant to section 421 of this title provided:

(1) the manufacturers are part of the same company;

(2) one manufacturer owns the controlling interest in the other manufacturer; or

(3) the controlling interest in each manufacturer is owned by the same person.

(b) For each transfer of malt beverages pursuant to this section, the manufacturers shall:

(1) document on invoices the amount of malt beverages transferred without payment of taxes; and

(2) prepare and maintain records of each transfer in accordance with all applicable federal laws and regulations.

Sec. 4. 7 V.S.A. § 231 is amended to read:

§ 231. FEES FOR LICENSES AND PERMITS; DISPOSITION OF FEES

(a) The following fees shall be paid:

(1) For a manufacturer's or rectifier's license to manufacture or rectify malt beverages ~~and~~, or vinous beverages and fortified wines, or ~~to manufacture or rectify~~ spirits and fortified wines, $310.00 for ~~either~~ each license.

* * *

(11) For up to ten fourth-class ~~vinous~~ licenses, $70.00.

* * *

(25) For a retail delivery permit, $100.00.

(26) For a destination resort master license, $500.00.

* * *

Sec. 5. 7 V.S.A. § 222 is amended to read:

§ 222. FIRST- AND SECOND-CLASS LICENSES; GRANTING OF; SALE TO MINORS; CONTRACTING FOR FOOD SERVICE

With the approval of the Liquor Control Board, the control commissioners may grant the following licenses to a retail dealer for the premises where the dealer carries on business:

(1) Upon making application and paying the license fee provided in section 231 of this title, a first-class license which authorizes the dealer to sell malt and vinous beverages for consumption only on those premises, and upon satisfying the Liquor Control Board that the premises are leased, rented, or owned by the retail dealer and are devoted primarily to dispensing meals to the public, except clubs ~~and cabarets~~, and that the premises have adequate and sanitary space and equipment for preparing and serving meals. The term "public" includes patrons of hotels, boarding houses, restaurants, dining cars,

and similar places where meals are served. A retail dealer carrying on business in more than one place shall acquire a first-class license for each place where the retail dealer sells malt and vinous beverages. No malt or vinous beverages shall be sold by a first-class licensee to a minor. Partially consumed bottles of vinous beverages or specialty beers that were purchased with a meal may be removed from first-class licensed premises provided the beverages are recapped or resealed.

* * *

(7)(A) The Liquor Control Board may grant a retail delivery permit to a second-class licensee if the licensee files an application accompanied by the fee provided in section 231 of this title.

(B)(i) A retail delivery permit holder may deliver malt beverages or vinous beverages sold from the licensed premises for consumption off the premises to the purchaser at a location in Vermont between the hours of 9:00 a.m. and 5:00 p.m.

(ii) An employee of a retail delivery permit holder shall not be permitted to make deliveries of malt beverages or vinous beverages pursuant to the permit unless he or she has completed a training program approved by the Department as required pursuant to section 239 of this chapter.

(C) The Liquor Control Board shall adopt rules to implement this subdivision (7).

Sec. 6. 7 V.S.A. § 224 is amended to read:

§ 224. THIRD-CLASS LICENSES; OPEN CONTAINERS

(a) The Liquor Control Board may grant to a person who operates a hotel, restaurant~~, cabaret~~, or club a license of the third class if the person files an application accompanied by the license fee as provided in section 231 of this title for the premises in which the business of the hotel, restaurant~~, cabaret~~, or club is carried on. The holder of a third-class license may sell spirits and fortified wines for consumption only on the premises covered by the license. The applicant for a third-class license shall satisfy the Liquor Control Board that the applicant is the bona fide owner or lessee of the premises and that the premises are operated for the purpose covered by the license.

* * *

Sec. 7. 7 V.S.A. § 242 is added to read:

§ 242. DESTINATION RESORT MASTER LICENSES

(a) The Liquor Control Board may grant a destination resort master license to a person that operates a destination resort if the applicant files an application

with the Liquor Control Board accompanied by the license fee provided in section 231 of this title. In addition to any information required pursuant to rules adopted by the Board, the application shall:

(1) designate all licensed caterers and commercial caterers that are proposed to be permitted to cater individual events within the boundaries of the resort pursuant to the destination resort master license;

(2) demonstrate that the destination resort:

(A) contains at least 100 acres of land; and

(B) offers at least 50 units of sleeping accommodations; and

(3) include a plan of the destination resort that sets forth:

(A) the destination resort boundaries;

(B) the ownership of the destination resort lands;

(C) the location and general design of buildings and other improvements within the resort boundaries; and

(D) the location of any sports and recreational facilities within the resort boundaries.

(b) A licensee may, upon five days' notice to the Department, amend the list of licensed caterers and commercial caterers that are designated in the destination resort master license.

(c) The holder of the destination resort master license shall, at least two days prior to the date of the event, provide the Department and local control commissioners with written notice of an event within the resort boundaries that will be catered pursuant to the master licenses. A licensed caterer or commercial caterer that is designated in the master license shall not be required to obtain a request to cater permit to cater an event occurring within the destination resort boundaries if the master licensee has provided the Department and local control commissioners with the required notice pursuant to this subsection.

(d) Real estate of a destination resort master license holder that is not contiguous with the license holder's principal premises or is located in a different municipality from the license holder's principal premises may be included in the destination resort's boundaries if it is clearly identified and delineated on the plan of the destination resort that is submitted pursuant to subsection (a) of this section.

Sec. 8. 7 V.S.A. § 424 is amended to read:

§ 424. COLLECTION

The ~~liquor control board~~ Liquor Control Board shall collect the tax imposed under section 422 of this title ~~from the purchaser thereof~~. The taxes ~~so~~ collected on sales by the Liquor Control Board shall be paid weekly to the ~~state treasurer~~ State Treasurer, and the taxes collected on sales by a manufacturer or rectifier shall be paid quarterly to the State Treasurer.

Sec. 9. 7 V.S.A. § 101 is amended to read:

§ 101. COMPOSITION OF DEPARTMENT; COMMISSIONER OF LIQUOR CONTROL; LIQUOR CONTROL BOARD

(a) The Department of Liquor Control, created by 3 V.S.A. § 212, shall include the Commissioner of Liquor Control and the Liquor Control Board.

(b)(1) The Liquor Control Board shall consist of five persons, not more than three members of which shall belong to the same political party.

(2)(A) ~~Biennially, with~~ With the advice and consent of the Senate, the Governor shall appoint ~~a person as a member~~ members of ~~such~~ the Board for ~~a staggered five-year term, whose~~ staggered five-year terms.

(B) The Governor shall fill a vacancy occurring during a term by an appointment for the unexpired term in accordance with the provisions of 3 V.S.A. § 257(b).

(C) A member's term of office shall commence on February 1 of the year in which ~~such appointment is made~~ the member is appointed.

(3) The Governor shall biennially designate a member of ~~such~~ the Board to be its Chair.

Sec. 10. 7 V.S.A. § 102 is amended to read:

§ 102. REMOVAL

~~After~~ Notwithstanding any provision of 3 V.S.A. § 2004 to the contrary, after notice and hearing, the ~~governor~~ Governor may remove a member of the ~~liquor control board~~ Liquor Control Board for incompetency, failure to discharge his or her duties, malfeasance, immorality, or other cause inimical to the general good of the ~~state~~ State. In case of such removal, the ~~governor~~ Governor shall appoint a person to fill the unexpired term.

Sec. 11. 7 V.S.A. § 106 is amended to read:

§ 106. COMMISSIONER OF LIQUOR CONTROL; REPORTS; RECOMMENDATIONS

~~The board shall employ an executive officer, who shall be the secretary of the board and shall be called the commissioner of liquor control. The commissioner shall be appointed for an indefinite period and shall be subject to removal upon the majority vote of the entire board. At such times and in such detail as the board directs, the commissioner shall make reports to the board concerning the liquor distribution system of the state, together with such recommendations as he deems proper for the promotion of the general good of the state.~~

(a)(1) With the advice and consent of the Senate, the Governor shall appoint from among no fewer than three candidates proposed by the Liquor Control Board a Commissioner of Liquor Control for a term of four years.

(2) The Board shall review the applicants for the position of Commissioner of Liquor Control and by a vote of the majority of the members of the Board shall select candidates to propose to the Governor. The Board shall consider each applicant's administrative expertise and his or her knowledge regarding the business of distributing and selling alcoholic beverages.

(b) The Commissioner shall serve at the pleasure of the Governor until the end of the term for which he or she is appointed or until a successor is appointed.

Sec. 12. 7 V.S.A. § 107 is amended to read:

§ 107. DUTIES OF COMMISSIONER OF LIQUOR CONTROL

The Commissioner of Liquor Control shall:

(1) In towns ~~which~~ that vote to permit the sale of spirits and fortified wines, establish ~~such number of~~ local agencies ~~therein~~ as the Board shall determine~~, enter into agreements for the rental of necessary and adequate quarters, and employ suitable assistants for the operation thereof~~. However, ~~it shall not be obligatory upon~~ the Liquor Control Board shall not be obligated to establish an agency in every town ~~which~~ that votes to permit the sale of spirits and fortified wines.

(2) ~~Make regulations~~ Recommend rules subject to ~~the~~ approval ~~of~~ and adoption by the Board governing the hours during which ~~such~~ local agencies shall be open for the sale of spirits and fortified wines ~~and governing,~~ the qualifications~~, department, and salaries~~ of the agencies' employees, and the business, operational, financial, and revenue standards that must be met for the establishment of an agency and its continued operation.

(3) ~~Make regulations~~ Recommend rules subject to ~~the~~ approval ~~of~~ and adoption by the Board governing:

(A) the prices at which spirits shall be sold by local agencies, the method for their delivery, and the quantities of spirits that may be sold to any one person at any one time; and

(B) the minimum prices at which fortified wines shall be sold by local agencies and second-class licensees that hold fortified wine permits, the method for their delivery, and the quantities of fortified wines that may be sold to any one person at any one time.

(4) Supervise the quantities and qualities of spirits and fortified wines to be kept as stock in local agencies and ~~make regulations~~ recommend rules subject to ~~the~~ approval ~~of~~ and adoption by the Board regarding the filling of requisitions therefor on the Commissioner of Liquor Control.

(5) Purchase through the Commissioner of Buildings and General Services spirits and fortified wines for and in behalf of the Liquor Control Board, supervise ~~the~~ their storage ~~thereof~~ and ~~the~~ distribution to local agencies, druggists ~~and, licensees of the third class~~, third-class licensees, and holders of fortified wine permits, and ~~make regulations~~ recommend rules subject to ~~the~~ approval ~~of~~ and adoption by the Board regarding the sale and delivery from the central storage plant.

(6) Check and audit the income and disbursements of all local agencies~~,~~ and the central storage plant.

(7) Report to the Board regarding the State's liquor control system and make recommendations for the promotion of the general good of the State.

(8) Devise methods and plans for eradicating intemperance and promoting the general good of the ~~state~~ State and make effective such methods and plans as part of the administration of this title.

Sec. 13. RULEMAKING

On or before July 1, 2017, the Commissioner shall prepare and submit to the Liquor Control Board for its approval and adoption his or her recommendation for rules to govern the business, operational, financial, and revenue standards for local agencies as necessary to implement this act.

Sec. 14. LEGISLATIVE COUNCIL; DRAFT LEGISLATION

On or before January 15, 2017, the Legislative Council, in consultation with the Commissioner of Liquor Control, the Liquor Control Board, and the Office of the Attorney General, shall prepare and submit a draft bill to the House Committee on General, Housing and Military Affairs and the Senate

Committee on Economic Development, Housing and General Affairs that makes statutory amendments of a technical nature to improve the clarity of Title 7 through the reorganization of its provisions and the modernization of its statutory language. The draft bill shall also identify all statutory sections of Title 7 that the General Assembly shall amend substantively in order to remove out-of-date and obsolete provisions or to reflect more accurately the current practices and programs of the Liquor Control Board and the Department of Liquor Control.

Sec. 15. COMMISSIONER OF LIQUOR CONTROL; CURRENT TERM; APPOINTMENT OF SUCCESSOR

The Commissioner of Liquor Control in office on the effective date of this act shall be deemed to have commenced a four-year term pursuant to 7 V.S.A. § 106(a)(1) on February 1, 2016. The Commissioner shall serve until the end of the four-year term or until a successor is appointed as provided pursuant to 7 V.S.A. § 106. Notwithstanding any provision of 3 V.S.A. § 2004 or 7 V.S.A. § 106(b) to the contrary, during this current term, the Governor may remove the Commissioner for cause after notice and a hearing.

Sec. 16. EFFECTIVE DATE

(a) This section shall take effect on July 1, 2016.

(b) In Sec. 4, 7 V.S.A. § 231, subdivisions (a)(1) (manufacturer's or rectifier's license) and (a)(11) (fourth-class license) shall take effect on July 2, 2016. The remaining provisions of Sec. 4 shall take effect on July 1, 2016.

(c) The remaining sections of this act shall take effect on July 1, 2016.

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

An act relating to alcoholic beverages.

And that when so amended the bill ought to pass.

Senator Ashe, for the Committee on Finance, to which the bill was referred, reported that they have considered the same and recommend that the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs with the following amendment thereto:

In Sec. 4, 7 V.S.A. § 231, by striking out subdivision (a)(26) in its entirety and inserting a new subdivision (a)(26) to read as follows:

(26) For a destination resort master license, $1,000.00.

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on

Economic Development, Housing and General Affairs was amended as recommended by the Committee on Finance.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Economic Development, Housing and General Affairs, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Representatives Willhoit and Beck,

By Senators Kitchel and Benning,

H.C.R. 279.

House concurrent resolution congratulating Peggy Fischer of St. Johnsbury on reaching the final four in the Food Network's 2016 Kids Baking Championship.

By Representative Ram and others,

H.C.R. 280.

House concurrent resolution designating March 9, 2016 as Turkish Cultural Day in Vermont.

By Representative Sharpe and others,

H.C.R. 281.

House concurrent resolution recognizing March as Meals on Wheels Month in Vermont.

By Representative Burditt and others,

By Senators Collamore, Flory and Mullin,

H.C.R. 282.

House concurrent resolution congratulating Abby McKearin on being named the 2015-2016 Vermont girls' soccer Gatorade Player of the Year.

By Representatives Lawrence and Marcotte,

H.C.R. 283.

House concurrent resolution in memory of former Lyndon Town Moderator Norman R. Messier.

By Representative Donahue and others,

H.C.R. 284.

House concurrent resolution designating May as Cystic Fibrosis Awareness Month in Vermont.

By Representative McFaun and others,

By Senators Benning, Cummings, Doyle, Pollina and White,

H.C.R. 285.

House concurrent resolution in memory of Vermont journalist Rod Clarke.

By Representative Fagan and others,

By Senators Collamore, Flory and Mullin,

H.C.R. 286.

House concurrent resolution congratulating the 2016 Rutland High School Raiders Division I championship cheerleading team.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, March 22, 2016, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 46.

TUESDAY, MARCH 22, 2016

Pursuant to the Senate Rules, in the absence of the President, the Senate was called to order by the President *pro tempore*.

Devotional Exercises

Devotional exercises were conducted by the Reverend Michael Caldwell of North Wolcott.

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Bill Called Up

S. 220.

Senate bill of the following title was called up by Senator White, and, under the rule, placed on the Calendar for action the next legislative day:

An act relating to the public financing of campaigns.

Senate Resolution Placed on Calendar

S.R. 11.

Senate resolution of the following title was offered, read the first time and is as follows:

By the Committee on Rules,

S.R. 11. Senate resolution relating to amending the permanent rules of the Senate.

Resolved by the Senate:

That the permanent rules of the Senate are amended as follows:

First: Senate Rule 102 is added to read:

102. Ethics: (Reserved)

Second: Senate Rule 103 is added to read:

103. Disclosure: (Reserved)

Third: Senate Rule 104 is added to read:

104. State House Interns/Employees/Assistants:

All State House interns, aides, employees and/or assistants of a Senator, whether paid or unpaid, shall complete and file with the Sergeant at Arms a form prepared by the Secretary disclosing their name, contact information and other pertinent information. Each Senator shall ensure compliance of their State House interns, aides, employees and/or assistants with this rule.

Thereupon, under Rule 34, the resolution was placed on the Calendar for notice the next legislative day.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 48.

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senators Baruth and Benning,

J.R.S. 48. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, March 25, 2016, it be to meet again no later than Tuesday, March 29, 2016.

Message from the House No. 36

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 111. An act relating to the removal of grievance decisions from the Vermont Labor Relations Board's website.

H. 531. An act relating to aboveground storage tanks.

H. 580. An act relating to conservation easements.

H. 595. An act relating to potable water supplies from surface waters.

H. 623. An act relating to parole eligibility.

H. 640. An act relating to expenses for the repair of town cemeteries.

H. 690. An act relating to the practice of acupuncture by physicians, osteopaths, and physician assistants.

H. 769. An act relating to strategies to reduce the incarcerated population.

H. 805. An act relating to employment rights for members of the National Guard and Reserve Components of the U.S. Armed Forces.

H. 812. An act relating to implementing an all-payer model and oversight of accountable care organizations.

H. 824. An act relating to the adoption of occupational safety and health rules and standards.

H. 860. An act relating to on-farm livestock slaughter.

H. 861. An act relating to regulation of treated article pesticides.

H. 862. An act relating to insurance laws.

In the passage of which the concurrence of the Senate is requested.

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 279. House concurrent resolution congratulating Peggy Fischer of St. Johnsbury on reaching the final four in the Food Network's 2016 Kids Baking Championship.

H.C.R. 280. House concurrent resolution designating March 9, 2016 as Turkish Cultural Day in Vermont.

H.C.R. 281. House concurrent resolution recognizing March as Meals on Wheels Month in Vermont.

H.C.R. 282. House concurrent resolution congratulating Abby McKearin on being named the 2015-2016 Vermont girls' soccer Gatorade Player of the Year.

H.C.R. 283. House concurrent resolution in memory of former Lyndon Town Moderator Norman R. Messier.

H.C.R. 284. House concurrent resolution designating May as Cystic Fibrosis Awareness Month in Vermont.

H.C.R. 285. House concurrent resolution in memory of Vermont journalist Rod Clarke .

H.C.R. 286. House concurrent resolution congratulating the 2016 Rutland High School Raiders Division I championship cheerleading team.

In the adoption of which the concurrence of the Senate is requested.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 111.

An act relating to the removal of grievance decisions from the Vermont Labor Relations Board's website.

To the Committee on Economic Development, Housing and General Affairs.

H. 531.

An act relating to aboveground storage tanks.

To the Committee on Natural Resources and Energy.

H. 580.

An act relating to conservation easements.

To the Committee on Natural Resources and Energy.

H. 595.

An act relating to potable water supplies from surface waters.

To the Committee on Natural Resources and Energy.

H. 623.

An act relating to parole eligibility.

To the Committee on Institutions.

H. 640.

An act relating to expenses for the repair of town cemeteries.

To the Committee on Government Operations.

H. 690.

An act relating to the practice of acupuncture by physicians, osteopaths, and physician assistants.

To the Committee on Health and Welfare.

H. 769.

An act relating to strategies to reduce the incarcerated population.

To the Committee on Institutions.

H. 805.

An act relating to employment rights for members of the National Guard and Reserve Components of the U.S. Armed Forces.

To the Committee on Economic Development, Housing and General Affairs.

H. 812.

An act relating to implementing an all-payer model and oversight of accountable care organizations.

To the Committee on Health and Welfare.

H. 824.

An act relating to the adoption of occupational safety and health rules and standards.

To the Committee on Economic Development, Housing and General Affairs.

H. 860.

An act relating to on-farm livestock slaughter.

To the Committee on Agriculture.

H. 861.

An act relating to regulation of treated article pesticides.

To the Committee on Agriculture.

H. 862.

An act relating to insurance laws.

To the Committee on Finance.

Bill Ordered to Lie

S. 245.

Senate bill entitled:

An act relating to disclosure of health care provider affiliations.

Was taken up.

Thereupon, pending the question Shall the bill pass?, on motion of Senator Baruth, the bill was ordered to lie.

Bill Amended; Third Reading Ordered

S. 52.

Senator White, for the Committee on Judiciary, to which was referred Senate bill entitled:

An act relating to the Uniform Interstate Family Support Act.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SPOUSAL SUPPORT AND MAINTENANCE TASK FORCE

(a) Creation. There is created a Spousal Support and Maintenance Task Force for the purpose of reviewing and modernizing Vermont's law concerning spousal support and maintenance.

(b) Membership. The Task Force shall be composed of the following seven members:

(1) a current member of the House of Representatives who shall be appointed by the Speaker of the House;

(2) a current member of the Senate who shall be appointed by the Committee on Committees;

(3) a Superior Court judge who has significant experience in the Family Division of Superior Court appointed by the Chief Justice;

(4) the Chief Superior Court Judge;

(5) two experienced family law attorneys appointed by the Family Law Section of the Vermont Bar Association; and

(6) a representative of Vermont Alimony Reform who is a resident of Vermont.

(c) Powers and duties. The Task Force shall consider amendments to Vermont's spousal support and maintenance laws aimed to improve clarity, fairness, and predictability in recognition of changes to the family structure in recent decades. The Task Force may hold public hearings and shall endeavor to hear a wide variety of perspectives from stakeholders and interested parties.

(d) Assistance. The Task Force shall have the administrative, technical, and legal assistance of the Office of Legislative Council.

(e) Recommendation. On or before January 15, 2017, the Task Force shall submit its recommendations for any legislative action to the Senate and House Committees on Judiciary.

(f) Meetings.

(1) The Superior Court judge appointed in accordance with subdivision (b)(3) of this section shall serve as chair.

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

(3) The Task Force shall cease to exist on March 1, 2017.

(g) Reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, legislative members of the Task Force shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for no more than four regular meetings and two public hearings.

(2) Other members of the Task Force who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for no more than four regular meetings and two public hearings.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

And that after passage the title of the bill be amended to read: "An act relating to creating a Spousal Support and Maintenance Task Force"

And that when so amended the bill ought to pass.

Senator Nitka, for the Committee on Appropriations, to which the bill was referred, reported that the bill ought to pass when so amended.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment was agreed to, and third reading of the bill was ordered.

Bill Amended; Bill Passed

S. 169.

Senate bill entitled:

An act relating to the Rozo McLaughlin Farm-to-School Program.

Was taken up.

Thereupon, pending third reading of the bill, Senators Sirotkin, Starr, and Zuckerman moved to amend the bill in Sec. 1, 6 V.S.A. § 4719, subsection (a), by adding a new subdivision (4) to read as follows:

(4) encourage youth involvement in the collection of excess fresh foods, known as gleaning, from farms, gardens, farmers' markets, grocers, and restaurants through classroom and cafeteria activities and educational materials regarding gleaning and nutrient management;

And by renumbering the remaining subdivisions to be numerically correct.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Bills Passed

Senate bills of the following titles were severally read the third time and passed:

S. 189. An act relating to foster parents' rights and protections.

S. 250. An act relating to alcoholic beverages.

Senate Resolution Adopted

S.R. 10.

Senate resolution entitled:

Senate resolution relating to adoption of a temporary Rule 44A

Having been placed on the Calendar for action, was taken up and adopted.

Adjournment

On motion of Senator Baruth, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 23, 2016.

WEDNESDAY, MARCH 23, 2016

Pursuant to the Senate Rules, in the absence of the President, the Senate was called to order by the President *pro tempore*.

Devotional Exercises

Devotional exercises were conducted by the Reverend Kim Kie of Barre.

Message from the House No. 37

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 74. An act relating to safety protocols for social and mental health workers.

H. 183. An act relating to security in the Capitol Complex.

H. 261. An act relating to criminal record inquiries by an employer.

H. 518. An act relating to the membership of the Clean Water Fund Board.

H. 560. An act relating to traffic safety.

H. 610. An act relating to clarifying the Clean Water State Revolving Fund and Water Pollution Control Grant Programs.

H. 629. An act relating to a study committee to examine laws related to the administration and issuance of vital records.

H. 789. An act relating to forest integrity and municipal and regional planning.

H. 818. An act relating to stalking.

H. 851. An act relating to the conduct of forestry operations.

H. 855. An act relating to forest fire suppression and forest fire wardens.

H. 869. An act relating to judicial organization and operations.

In the passage of which the concurrence of the Senate is requested.

The House has adopted joint resolution of the following title:

J.R.H. 24. Joint resolution authorizing the Green Mountain Girls State educational program to use the State House.

In the adoption of which the concurrence of the Senate is requested.

Bill Called Up

S. 245.

Senate bill of the following title was called up by Senator Ayer, and, under the rule, placed on the Calendar for action the next legislative day:

An act relating to disclosure of health care provider affiliations.

Joint Resolution Placed on Calendar

J.R.H. 24.

Joint resolution originating in the House of the following title was read the first time and is as follows:

Joint resolution authorizing the Green Mountain Girls State educational program to use the State House.

Whereas, the American Legion Auxiliary Department of Vermont sponsors the Green Mountain Girls State program, which provides an opportunity for girls in high school to study the workings of State government in Montpelier, and

Whereas, as part of their visit to the State's capital city, these young women conduct a mock legislative session in the State House, and

Whereas, this is an invaluable educational experience that provides firsthand knowledge about the legislative process, now therefore be it

Resolved by the Senate and House of Representatives:

That the Sergeant at Arms shall make available the chambers and committee rooms of the State House for the Green Mountain Girls State program on Wednesday, June 22, 2016, from 8:00 a.m. to 4:30 p.m., and be it further

Resolved: That the Secretary of State be directed to send a copy of this resolution to the American Legion Auxiliary Department of Vermont in Montpelier.

Thereupon, in the discretion of the President *pro tempore*, under Rule 51, the joint resolution was placed on the Calendar for action the next legislative day.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 74.

An act relating to safety protocols for social and mental health workers.

To the Committee on Health and Welfare.

H. 183.

An act relating to security in the Capitol Complex.

To the Committee on Institutions.

H. 261.

An act relating to criminal record inquiries by an employer.

To the Committee on Economic Development, Housing and General Affairs.

H. 518.

An act relating to the membership of the Clean Water Fund Board.

To the Committee on Natural Resources and Energy.

H. 560.

An act relating to traffic safety.

To the Committee on Judiciary.

H. 610.

An act relating to clarifying the Clean Water State Revolving Fund and Water Pollution Control Grant Programs.

To the Committee on Natural Resources and Energy.

H. 629.

An act relating to a study committee to examine laws related to the administration and issuance of vital records.

To the Committee on Government Operations.

H. 789.

An act relating to forest integrity and municipal and regional planning.

To the Committee on Natural Resources and Energy.

H. 818.

An act relating to stalking.

To the Committee on Judiciary.

H. 851.

An act relating to the conduct of forestry operations.

To the Committee on Natural Resources and Energy.

H. 855.

An act relating to forest fire suppression and forest fire wardens.

To the Committee on Natural Resources and Energy.

H. 869.

An act relating to judicial organization and operations.

To the Committee on Rules.

Bill Amended; Bill Passed

S. 52.

Senate bill entitled:

An act relating to the Uniform Interstate Family Support Act.

Was taken up.

Thereupon, pending third reading of the bill, Senator White moved to amend the bill by in Sec. 1, Spousal Support and Maintenance Task Force, in subsection (a), by striking out the word "modernizing" and inserting in lieu thereof the words making legislative recommendations to and in subsection (c), by striking out the words "consider amendments" and inserting in lieu thereof the words make legislative recommendations

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Third Reading Ordered

H. 565.

Senator Doyle, for the Committee on Economic Development, Housing and General Affairs, to which was referred House bill entitled:

An act relating to United Methodist Church property.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 220.

Senate bill entitled:

An act relating to the public financing of campaigns.

Having been called up, was taken up.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations?, Senators Pollina, Benning, Bray, Collamore, and White moved to amend the recommendation of amendment of the Committee on Government Operations in Sec. 3, 17 V.S.A. § 2983 (Vermont campaign finance grants; conditions), by striking out subsection (b) in its entirety and inserting in lieu thereof the following:

* * *

Which was agreed to.

Thereupon, pending the question, Shall the bill be amended as recommended by the Committee on Government Operations?, as amended?, Senator Zuckerman moved to amend the recommendation of amendment of the Committee on Government Operations, as amended by striking out Sec. 1, 17 V.S.A. § 2981 (definitions), in its entirety and inserting in lieu thereof the following:

Sec. 1. 17 V.S.A. § 2981 is amended to read:

§ 2981. DEFINITIONS

As used in this subchapter:

* * *

(4) "Vermont campaign finance qualification period" means one of the following periods within which a candidate who intends to seek Vermont campaign finance grants shall be required to obtain qualifying contributions, as chosen by the candidate:

(A) ~~the~~ The period beginning February 15 of each even-numbered year and ending on the date on which primary petitions must be filed under section 2356 of this title.

(B) If another candidate for the office does not intend to seek Vermont campaign finance grants and that other candidate registers as a candidate pursuant to subsection 2921(a) of this chapter prior to February 15 of the even-numbered year, a period beginning on or after the date that the other candidate registers as a candidate and ending no later than 100 days after the

beginning of that period or the date on which primary petitions must be filed under section 2356 of this title, whichever occurs first.

Thereupon pending the question, Shall the report of the Committee on Government Operations be amended as recommended by Senator Zuckerman?, Senator Zuckerman requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, the recommendation of amendment of the Committee on Government Operations, as amended was agreed to and third reading of the bill was ordered.

Bill Amended; Third Reading Ordered

S. 107.

Senator White, for the Committee on Government Operations, to which was referred Senate bill entitled:

An act relating to the Agency of Health Care Administration.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Creation of Agency of Health Care Administration * * *

Sec. 1. 3 V.S.A. chapter 52 is added to read:

CHAPTER 52. AGENCY OF HEALTH CARE ADMINISTRATION

Subchapter 1. Generally

§ 2901. DEFINITIONS

As used in this chapter:

(1) "Agency" means the Agency of Health Care Administration.

(2) "Commissioner" means the head of a department, who is responsible to the Secretary for the administration of the department.

(3) "Department" means a major component of the Agency.

(4) "Director" means the head of a division of the Agency.

(5) "Division" means a major component of a department engaged in furnishing services to the public or to units of government at levels other than the State level.

(6) "Secretary" means the head of the Agency, who is a member of the Governor's cabinet and responsible to the Governor for the administration of the Agency.

§ 2902. CREATION OF AGENCY

An Agency of Health Care Administration is created consisting of the following:

(1) the Department of Health Access;

(2) the Department of Mental Health and Substance Abuse;

(3) the Department of Long Term Care;

(4) the Department of Public Health;

(5) the Health Care Board; and

(6) the Vermont Health Benefit Exchange.

§ 2903. ADVISORY CAPACITY

(a) All boards and commissions that are part of or attached to the Agency pursuant to this chapter shall be advisory only except as otherwise provided in this chapter, and the powers and duties of the boards and commissions, including administrative, policymaking, and regulatory functions, shall vest in and be exercised by the Secretary of the Agency.

(b) Notwithstanding the provisions of subsection (a) of this section, the Board of Health shall retain and exercise all powers and functions given to the Board by law of a quasi-judicial nature, including the power to conduct hearings, adjudicate controversies, and issue and enforce orders in the manner and to the extent provided by law. Boards of registration, certification, and licensure attached to this Agency shall retain and exercise all existing authority with respect to registration, certification, licensure, and maintenance of the standards of persons registered, certified, and licensed.

§ 2904. PERSONNEL DESIGNATION

The Secretary and Deputy Secretary, and any commissioner, deputy commissioner, director, attorney, and member of a board, committee, commission, or council attached to the Agency are exempt from the classified State service. Except as authorized by section 311 of this title or as otherwise provided by law, all other Agency positions shall be within the classified service.

Subchapter 2. Secretary

§ 2921. APPOINTMENT OF SECRETARY

The Agency shall be under the direction and supervision of a Secretary, who shall be appointed by the Governor with the advice and consent of the Senate and who shall serve at the pleasure of the Governor. The Secretary

shall be responsible to the Governor and shall plan, coordinate, and direct the functions vested in the Agency.

§ 2922. DEPUTY SECRETARY

(a) The Secretary, with the approval of the Governor, may appoint a Deputy Secretary to serve at the Secretary's pleasure and to perform such duties as the Secretary prescribes. The appointment shall be in writing and the Secretary shall record the appointment in the Office of the Secretary of State.

(b) The Deputy Secretary shall discharge the duties and responsibilities of the Secretary in the Secretary's absence. In the event of a vacancy in the Office of the Secretary, the Deputy shall assume and discharge the duties of the Office until the vacancy is filled.

§ 2923. ADVISORY COUNCILS OR COMMITTEES

The Secretary, with the approval of the Governor, may create such advisory councils or committees within the Agency as he or she deems necessary, and may appoint their members for terms not exceeding his or hers.

§ 2924. TRANSFER OF PERSONNEL AND APPOPRIATIONS

(a) The Secretary, with the approval of the Governor, may transfer classified positions between State departments and other components of the Agency, subject only to personnel laws and rules.

(b) The Secretary, with the approval of the Governor, may transfer appropriations or portions of appropriations between departments and other components in the Agency, consistent with the purposes for which the appropriation was made.

Subchapter 3. Commissioners and Directors

§ 2951. COMMISSIONERS; DEPUTY COMMISSIONERS; APPOINTMENT; TERM

(a) The Secretary, with the approval of the Governor, shall appoint a commissioner of each department, who shall be the chief executive and administrative officer and who shall service at the pleasure of the Secretary.

(b) For the Department of Health Access, the Secretary, with the approval of the Governor, shall appoint deputy commissioners for the following divisions of the Department:

(1) Medicaid Health Services and Managed Care; and

(2) Medicaid Policy, Fiscal, and Support Services.

(c) For the Department of Mental Health and Substance Abuse, the Secretary, with the approval of the Governor, shall appoint deputy commissioners for the following divisions of the Department:

(1) Mental Health; and

(2) Substance Abuse.

(d) Deputy commissioners shall be exempt from classified service. Their appointments shall be in writing and shall be filed in the Office of the Secretary of State.

§ 2952. MANDATORY DUTIES

(a) The commissioner shall determine the policies of the department, and may exercise the powers and shall perform the duties required for its effective administration.

(b) In addition to other duties imposed by law, the commissioner shall:

(1) administer the laws assigned to the department;

(2) coordinate and integrate the work of the divisions; and

(3) supervise and control all staff functions.

§ 2953. PERMISSIVE DUTIES; APPROVAL OF SECRETARY

The commissioner may, with the approval of the Secretary:

(1) Transfer appropriations or parts thereof within or between divisions, consistent with the purposes for which the appropriation was made.

(2) Transfer classified positions within or between divisions subject only to State personnel laws and regulations.

(3) Cooperate with the appropriate federal agencies and administer federal funds in support of programs within the department.

(4) Submit plans and reports, and in other respects comply with federal law and regulations which pertain to programs administered by the department.

(5) Make rules consistent with law for the internal administration of the department and its programs.

(6) Appoint a deputy commissioner.

(7) Create within the department such advisory councils or committees as he or she deems necessary, and appoint their members for a term not exceeding that of the commissioner.

(8) Provide training and instructions for any employees of the department, at the expense of the department, in educational institutions or other places.

(9) Organize, reorganize, transfer, or abolish divisions, staff functions or sections within the department. This authority shall not extend to divisions or other bodies created by law.

§ 2954. DIRECTORS

(a) A director shall administer each division within the Agency. The commissioners, with the approval of the Secretary, shall appoint the directors for divisions which are part of a department, and the Secretary shall appoint any other directors.

(b) Each division and its officers shall be under the direction and control of the appointing authority except with regard to judicial or quasi-judicial acts or duties vested in them by law.

(c) No rule or regulation may be issued by a director of a division without the approval of the appointing authority.

Subchapter 4. Departments, Divisions, and Boards

§ 2971. DEPARTMENT OF HEALTH ACCESS

The Department of Health Access is created within the Agency of Health Care Administration as the successor to and continuation of the Department of Vermont Health Access.

§ 2972. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE

The Department of Mental Health and Substance Abuse is created within the Agency of Health Care Administration as the successor to and continuation of the Department of Mental Health and the Division of Alcohol and Drug Abuse Programs in the Department of Health. The Department shall be responsible for individuals committed to the care and custody of the Commissioner and for the operation of the Vermont Psychiatric Care Hospital and secure residential recovery facility.

§ 2973. DEPARTMENT OF LONG TERM CARE

The Department of Public Health is created within the Agency of Health Care Administration as the successor to and continuation of the programs within the Department of Disabilities, Aging, and Independent Living related to nursing homes, home- and community-based services, the Choices for Care program, and certification of long-term care facilities on behalf of the Centers for Medicare and Medicaid Services. It shall also serve as the administrative home within the Agency of Health Care Administration for the designated State agencies for federal Vocational Rehabilitation and Independent Living Programs, as provided by the Rehabilitation Act of 1973, as amended.

§ 2974. DEPARTMENT OF PUBLIC HEALTH

The Department of Public Health is created within the Agency of Health Care Administration as the successor to and continuation of the Department of Health.

§ 2975. OPERATIONS DIVISION

(a) The Operations Division of the Agency is created and shall be administered by a Director of Administration.

(b) The Operations Division shall provide the following services to the Agency and all its components, including components assigned to it for administration:

(1) personnel administration;

(2) financing and accounting activities;

(3) coordination of filing and records maintenance activities;

(4) provision of facilities, office space, and equipment and the care thereof;

(5) requisitioning of supplies, equipment, and other requirements from the Department of Buildings and General Services in the Agency of Administration;

(6) management improvement services;

(7) training;

(8) information systems and technology; and

(9) other administrative functions assigned to it by the Secretary.

(c) Notwithstanding any provision of law to the contrary, all administrative service functions delegated to other components of the Agency shall be performed within the Agency by the Operations Division.

§ 2976. PLANNING DIVISION

(a) The Planning Division of the Agency is created and shall be administered by a Director of Planning appointed by the Secretary.

(b) The Planning Division shall be responsible for:

(1) centralized strategic planning for all components of the Agency;

(2) coordination of professional and technical planning of the line components of the Agency, aiming toward maximum service to the public;

(3) coordinating activities and plans of the Agency with other State agencies and the Governor's office;

(4) preparing multi-year plans and long-range plans and programs to meet problems and opportunities for service to the public; and

(5) other planning functions assigned to it by the Secretary.

Subchapter 6. Health Care Board

§ 2991. HEALTH CARE BOARD

(a) The Health Care Board is created within the Agency of Health Care Administration. It consists of seven members. The Governor, with the advice and consent of the Senate, shall appoint members for terms of six years so that not more than three terms expire in the same biennium. The Governor shall designate the Board's Chair.

(b) The duties of the Board shall be to act as a Fair Hearing Board on appeals brought pursuant to section 2992 of this title.

(c) The Board shall hold meetings at times and places warned by the Chair on his or her own initiative or upon request of two Board members or the Governor. Four members shall constitute a quorum, except that three members shall constitute a quorum at any meeting upon the written authorization of the Chair issued in connection with that meeting.

(d) With the approval of the Governor the Board may appoint one or more hearing officers, who shall be outside the classified service, and it may employ such secretarial assistance as it deems necessary in the performance of its duties.

(e) On or before January 15 of each year, the Board shall report to the House Committees on Appropriations, on Human Services, and on Health Care and the Senate Committees on Appropriations, on Health and Welfare, and on Finance regarding the fair hearings conducted by the Board during the three preceding calendar years, including:

(1) the total number of fair hearings conducted over the three-year period and per year;

(2) the number of hearings per year involving appeals of decisions by the Agency itself and each department within the Agency, with the appeals and decisions relating to health insurance through the Vermont Health Benefit Exchange reported distinctly from other programs;

(3) the number of hearings per year based on appeals of decisions regarding:

(A) eligibility;

(B) benefits;

(C) coverage;

(D) financial assistance; and

(E) other categories of appeals;

(4) the number of hearings per year based on appeals of decisions regarding each State program over which the Board has jurisdiction;

(5) the number of decisions per year made in favor of the appellant; and

(6) the number of decisions per year made in favor of the department or the Agency.

§ 2992. HEARINGS

(a) An applicant for or a recipient of assistance, benefits, or services from the Department of Health Access, of Long-Term Care, or of Mental Health and Substance Abuse, or an applicant for a license from one of those departments, or a licensee may file a request for a fair hearing with the Health Care Board. An opportunity for a fair hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits, or services is denied or is not acted upon with reasonable promptness; because the individual is aggrieved by any other Agency action affecting his or her receipt of assistance, benefits, or services, or license or license application; or because the individual is aggrieved by Agency policy as it affects his or her situation.

(b) The hearing shall be conducted by the Board or by a hearing officer appointed by the Board. The Chair of the Board may compel, by subpoena, the attendance and testimony of witnesses and the production of books and records. All witnesses shall be examined under oath. The Board shall adopt rules with reference to appeals, which shall not be inconsistent with this chapter. The rules shall provide for reasonable notice to parties, and an opportunity to be heard and be represented by counsel.

(c) The Board or the hearing officer shall issue written findings of fact. If the hearing is conducted by a hearing officer, the hearing officer's findings shall be reported to the Board, and the Board shall approve the findings and adopt them as the findings of the Board unless good cause is shown for disapproving them. Whether the findings are made by the Board, or by a hearing officer and adopted by the Board, the Board shall enter its order based on the findings.

(d) After the fair hearing, the Board may affirm, modify, or reverse decisions of the Agency; it may determine whether an alleged delay was justified; and it may make orders consistent with this title requiring the Agency to provide appropriate relief including retroactive and prospective benefits. The Board shall consider, and shall have the authority to reverse or modify,

decisions of the Agency based on rules which the Board determines to be in conflict with State or federal law. The Board shall not reverse or modify Agency decisions which are determined to be in compliance with applicable law, even though the Board may disagree with the results effected by those decisions.

(e) The Board shall give written notice of its decision to the person applying for fair hearing and to the Agency. Unless a continuance is requested or consented to by an aggrieved person, decisions and orders concerning medical assistance (Medicaid) under 33 V.S.A. chapter 19 shall be issued by the Board within 75 days of the request for hearing.

(f) The Agency or the appellant may appeal from decisions of the Board to the Supreme Court under V.R.A.P. 13. Pending the final determination of any appeal, the terms of the order involved shall be given effect by the Agency except insofar as they relate to retroactive benefits.

(g) A party to an order or decree of the Board or the Board itself, or both, may petition the Supreme Court for relief against any disobedience of, or noncompliance with, the order or decree. In the proceedings and upon such notice thereof to the parties as it shall direct, the Supreme Court shall hear and consider the petition and make such order and decree in the premises by way of writ of mandamus, writ of prohibition, injunction, or otherwise, concerning the enforcement of the order and decree of the Board as shall be appropriate.

(h)(1) Notwithstanding subsections (d) and (f) of this section, the Secretary shall review all Board decisions and orders concerning Medicaid. The Secretary shall:

(A) adopt a Board decision or order, except that the Secretary may reverse or modify a Board decision or order if:

(i) the Board's findings of fact lack any support in the record; or

(ii) the decision or order implicates the validity or applicability of any Agency policy or rule;

(B) issue a written decision setting forth the legal, factual or policy basis for reversing or modifying a Board decision or order.

(2) Notwithstanding subsections (d) and (f) of this section, a Board decision and order concerning Medicaid shall become the final and binding decision of the Agency upon its approval by the Secretary. The Secretary shall either approve, modify, or reverse the Board's decision and order within 15 days of the date of the Board's decision and order. If the Secretary fails to issue a written decision within 15 days as required by this subdivision, the

Board's decision and order shall be deemed to have been approved by the Secretary.

(3) Notwithstanding subsection (f) of this section, only the claimant may appeal a decision of the Secretary to the Supreme Court. Such appeals shall be pursuant to Rule 13 of the Vermont Rules of Appellate Procedure. The Supreme Court may stay the Secretary's decision upon the claimant's showing of a fair ground for litigation on the merits. The Supreme Court shall not stay the Secretary's order insofar as it relates to a denial of retroactive benefits.

* * * Conforming Revisions to Agency of Human Services * * *

Sec. 2. 3 V.S.A. § 3002(a) is amended to read:

(a) An Agency of Human Services is created consisting of the following:

(1) The Department of Corrections.

(2) The Department for Children and Families.

(3) ~~The Department of Health.~~ [Repealed.]

(4) The Department of ~~Disabilities, Aging, and~~ Independent Living.

(5) The Human Services Board.

(6) ~~The Department of Vermont Health Access.~~ [Repealed.]

(7) ~~The Department of Mental Health.~~ [Repealed.]

Sec. 3. 3 V.S.A. § 3003(b) is amended to read:

(b) ~~Notwithstanding subsection (a) of this section, the Board of Health shall retain and exercise all powers and functions given to the Board by law of quasi-judicial nature, including the power to conduct hearings, to adjudicate controversies, and to issue and enforce orders, in the manner and to the extent provided by law.~~ Boards of registration attached to this Agency shall retain and exercise all existing authority with respect to licensing and maintenance of the standards of the persons registered.

Sec. 4. 3 V.S.A. § 3004 is amended to read:

§ 3004. PERSONNEL DESIGNATION

The Secretary, Deputy Secretary, commissioners, deputy commissioners, attorneys, Directors of the Offices of State Economic Opportunity~~, of Alcohol and Drug Abuse Programs,~~ and of Child Support, and all members of boards, committees, commissions, or councils attached to the Agency for support are exempt from the classified State service. Except as authorized by section 311 of this title or otherwise by law, all other positions shall be within the classified service.

Sec. 5. 3 V.S.A. § 3051 is amended to read:

§ 3051. COMMISSIONERS; DEPUTY COMMISSIONERS; APPOINTMENT; TERM

(a) The Secretary, with the approval of the Governor, shall appoint a commissioner of each department, who shall be the chief executive and administrative officer and shall serve at the pleasure of the Secretary.

(b) ~~For the Department of Health, the Secretary, with the approval of the Governor, shall appoint deputy commissioners for the following divisions of the Department:~~

~~(1) Public Health;~~

~~(2) Substance Abuse.~~ [Repealed.]

(c) For the Department for Children and Families, the Secretary, with the approval of the Governor, shall appoint deputy commissioners for the following divisions of the Department:

(1) Economic Services;

(2) Child Development;

(3) Family Services.

(d) ~~For the Department of Vermont Health Access, the Secretary, with the approval of the Governor, shall appoint deputy commissioners for the following divisions of the Department:~~

~~(1) Medicaid Health Services and Managed Care;~~

~~(2) Medicaid Policy, Fiscal, and Support Services;~~

~~(3) Health Care Reform;~~

~~(4) Vermont Health Benefit Exchange.~~ [Repealed.]

(e) Deputy commissioners shall be exempt from the classified service. Their appointments shall be in writing and shall be filed in the Office of the Secretary of State.

Sec. 6. 3 V.S.A. § 3085a is amended to read:

§ 3085a. DEPARTMENT OF ~~DISABILITIES, AGING, AND~~ INDEPENDENT LIVING

The Department of ~~Disabilities, Aging, and~~ Independent Living is created within the Agency of Human Services as the successor to and continuation of the Department of Aging and Disabilities, the Developmental Services Division of the Department of Developmental and Mental Health Services, and

the personal care and hi-tech programs in the former Department of Prevention, Assistance, Transition, and Health Access to manage programs and to protect the interests of older Vermonters and Vermonters with disabilities. It shall serve as the State unit on aging, as provided by the Older Americans Act of 1965, as amended~~, and it shall serve as the administrative home within the Agency of Human Services for the designated State agencies for federal Vocational Rehabilitation and Independent Living Programs, as provided by the Rehabilitation Act of 1973, as amended~~.

Sec. 7. 3 V.S.A. § 3090(e) is amended to read:

(e) On or before January 15 of each year, the Board shall report to the House Committees on Appropriations, on Human Services, and on Health Care and the Senate Committees on Appropriations, on Health and Welfare, and on Finance regarding the fair hearings conducted by the Board during the three preceding calendar years, including:

(1) the total number of fair hearings conducted over the three-year period and per year;

(2) the number of hearings per year involving appeals of decisions by the Agency itself and each department within the Agency~~, with the appeals and decisions relating to health insurance through the Vermont Health Benefit Exchange reported distinctly from other programs~~;

* * *

Sec. 8. 3 V.S.A. § 3091 is amended to read:

§ 3091. HEARINGS

(a) An applicant for or a recipient of assistance, benefits, or social services from the Department for Children and Families, ~~of Vermont Health Access,~~ or of ~~Disabilities, Aging, and~~ Independent Living, ~~or of Mental Health,~~ or an applicant for a license from one of those departments, or a licensee may file a request for a fair hearing with the Human Services Board. An opportunity for a fair hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits, or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other Agency action affecting his or her receipt of assistance, benefits, or services, or license or license application; or because the individual is aggrieved by Agency policy as it affects his or her situation.

* * *

(e) The Board shall give written notice of its decision to the person applying for fair hearing and to the Agency. Unless a continuance is requested or consented to by an aggrieved person, decisions and orders concerning

Temporary Assistance to Needy Families (TANF) under 33 V.S.A. chapter 11~~,~~ and TANF-Emergency Assistance (TANF-EA) under Title IV of the Social Security Act ~~and medical assistance (Medicaid) under 33 V.S.A. chapter 19~~ shall be issued by the Board within 75 days of the request for hearing.

* * *

(h)(1) Notwithstanding subsections (d) and (f) of this section, the Secretary shall review all Board decisions and orders concerning TANF, TANF-EA, and Office of Child Support Cases~~, and Medicaid~~. The Secretary shall:

(A) adopt a Board decision or order, except that the Secretary may reverse or modify a Board decision or order if:

(i) the Board's findings of fact lack any support in the record; or

(ii) the decision or order implicates the validity or applicability of any Agency policy or rule.

(B) issue a written decision setting forth the legal, factual, or policy basis for reversing or modifying a Board decision or order.

(2) Notwithstanding subsections (d) and (f) of this section, a Board decision and order concerning TANF, TANF-EA, or Office of Child Support~~, or Medicaid~~ shall become the final and binding decision of the Agency upon its approval by the Secretary. The Secretary shall either approve, modify, or reverse the Board's decision and order within 15 days of the date of the Board's decision and order. If the Secretary fails to issue a written decision within 15 days as required by this subdivision, the Board's decision and order shall be deemed to have been approved by the Secretary.

* * *

* * * Transitional Provisions * * *

Sec. 9. TRANSFER OF POSITIONS; ADMINISTRATION

(a) Prior to March 1, 2017, the Secretary of Administration shall create the position of the Secretary of Health Care Administration.

(b) Effective March 1, 2017, the Secretary of Administration shall place under the supervision of the Secretary of Health Care Administration:

(1) all employees, professional and support staff, consultants, and positions contained in the departments, divisions, and offices described in Sec. 12 of this act to which the Agency is the successor in interest;

(2) all balances of all appropriation amounts for personal services and operating expenses for the departments, divisions, units, and offices described in Sec. 12 of this act; and

(3) up to 20 positions from the Agency of Human Services to staff the office of the Secretary of Health Care Administration, including the associated appropriation amounts for these personnel and the operating expenses related to these functions.

(c) The Agency of Human Services shall provide fiscal and administrative support for the Agency of Health Care Administration until October 1, 2017.

(d) No later than January 1, 2019, the Secretary of Administration shall complete the transfer to the Agency of Health Care Administration of:

(1) all employees, professional and support staff, consultants, and positions contained in the departments, divisions, and offices described in Sec. 12 of this act to which the Agency is the successor in interest; and

(2) all balances of all appropriation amounts for personal services and operating expenses for the departments, divisions, units, and offices described in Sec. 12 of this act.

(e) No later than January 1, 2019, the Secretary of Administration shall complete the reorganization of the Agency of Human Services into an Agency of Health Care Administration as described in this Act and an Agency of Human Services consisting of the remaining departments, divisions, and offices.

Sec. 10. PROCESS; REORGANIZATION OF DEPARTMENT OF DISABILITIES, AGING, AND INDEPENDENT LIVING

(a) No later than December 1, 2017, the Secretary of Administration or designee shall submit to the House Committees on Appropriations, on Human Services, and on Government Operations and the Senate Committees on Appropriations, on Health and Welfare, and on Government Operations a proposal for dividing the Department of Disabilities, Aging, and Independent Living into a Department of Long-Term Care in the Agency of Health Care Administration and a Department of Independent Living in the Agency of Human Services. The proposal shall include proposed legislative changes necessary to effect the division recommended by the Secretary.

(b)(1) The Department of Long-Term Care shall have the authority to administer the Choices for Care portion of Vermont's Medicaid Section 1115 waiver, regulate nursing homes, regulate organizations providing home- and community-based services, and certify long-term care facilities on behalf of the Centers for Medicare and Medicaid Services.

(2) The Department for Independent Living shall provide services to Vermonters who are elders and to individuals with disabilities to enable them to remain in their homes, including vocational rehabilitation services.

Sec. 11. PROCESS; REORGANIZATION OF DEPARTMENTS, UNITS, AND DIVISIONS

(a) No later than December 1, 2017, the Secretary of Health Care Administration shall propose to the House Committees on Appropriations, on Human Services, and on Government Operations and the Senate Committees on Appropriations, on Health and Welfare, and on Government Operations any additional modifications to the departments, units, and divisions transferred from the Agency of Human Services to the Agency of Health Care Administration needed to reflect the following new departments:

(1) the Department of Health Access;

(2) the Department of Mental Health and Substance Abuse; and

(3) the Department of Public Health;

(b) The proposal may include moving divisions of the transferred departments as necessary to ensure the efficient and rational administration and regulation of Vermont's health care system.

(c) The proposal shall include proposed legislative changes necessary to effect the modifications recommended by the Secretary.

Sec. 12. TRANSITIONAL PROVISIONS

(a) The Agency of Health Care Administration is the successor to and continuation of:

(1) the Department of Vermont Health Access under 3 V.S.A. § 3088;

(2) the Department of Mental Health under 3 V.S.A. § 3089;

(3) the long-term care and home- and community-based service components of the Department of Disabilities, Aging, and Independent Living under 3 V.S.A. § 3085a; and

(4) the Department of Health under 3 V.S.A. § 3082.

(b) The Agency shall continue the duties of the departments as described in subsection (a) of this section, including the duties contained in 33 V.S.A. chapter 19 (medical assistance).

* * * Conforming Statutory Amendments * * *

Sec. 13. OFFICE OF LEGISLATIVE COUNCIL

On or before December 1, 2016, the Office of Legislative Council shall provide to the House Committees on Government Operations, on Health Care, and on Human Services and the Senate Committees on Finance, on Government Operations, and on Health and Welfare proposed statutory

amendments as needed to correct references in the Vermont Statutes Annotated to the agencies and departments created or amended by this act.

* * * Repeals * * *

Sec. 14. REPEALS

3 V.S.A. §§ 3082 (Department of Health), 3088 (Department of Vermont Health Access), and 3089 (Department of Mental Health) are repealed on passage.

* * * Effective Dates * * *

Sec. 15. EFFECTIVE DATES

(a) Secs. 1 (Agency of Health Care Administration) and 2–8 (Agency of Human Services; revisions) shall take effect on October 1, 2017.

(b) The remaining sections shall take effect on passage.

And that when so amended the bill ought to pass.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported that they have considered the same and recommend that the bill be amended as recommended by the Committee on Government Operations with the following amendments thereto:

First: In Sec. 1, in 3 V.S.A. § 2973, in the catchline, by striking out the following: "LONG TERM" and inserting in lieu thereof the following: LONG-TERM, in the first sentence, by striking out the following: "Public Health" and inserting in lieu thereof the following: Long-Term Care, and by striking out the second sentence in its entirety.

Second: By striking out Sec. 6, 3 V.S.A. § 3085a, in its entirety and inserting in lieu thereof a new Sec. 6, 3 V.S.A. § 3085a to read as follows:

§ 3085a. DEPARTMENT OF ~~DISABILITIES, AGING, AND~~ INDEPENDENT LIVING

The Department of ~~Disabilities, Aging, and~~ Independent Living is created within the Agency of Human Services as the successor to and continuation of the Department of Aging and Disabilities, the Developmental Services Division of the Department of Developmental and Mental Health Services, and the personal care and hi-tech programs in the former Department of Prevention, Assistance, Transition, and Health Access to manage programs and to protect the interests of older Vermonters and Vermonters with disabilities. It shall serve as the State unit on aging, as provided by the Older Americans Act of 1965, as amended, and it shall serve as the administrative home within the Agency of Human Services for the designated State agencies for federal

Vocational Rehabilitation and Independent Living Programs, as provided by the Rehabilitation Act of 1973, as amended.

Third: In Sec. 9, transfer of positions; administration, in subsections (a) and (b), by striking out the following "March 1, 2017" in both instances and inserting in lieu thereof the following: October 1, 2017

Fourth: In Sec. 9, transfer of positions; administration, in subsection (c), by striking out the following: "October 1, 2017" and inserting in lieu thereof the following: March 1, 2018

Fifth: In Sec. 9, transfer of positions; administration, in subsection (e), by adding a second and third sentence to read as follows:

The financial, legal, and departmental functions of the departments described in Sec. 12 of this act, to which the departments in the Agency of Health Care Administration are the successors in interest, shall be consolidated in the Office of the Secretary of Health Care Administration and shall use existing departmental resources as needed. Any new exempt positions needed as a result of this act shall be transferred and converted from existing vacant exempt positions in the Executive Branch.

Sixth: By adding a new section to be numbered Sec. 15 to read as follows:

Sec. 15. TRANSITION FUNDING

It is the intent of the General Assembly to provide in the appropriations act funding to the Agency of Administration in fiscal year 2017 to be transferred to the Agency of Human Services for transition costs associated with the reorganization of the Agency of Human Services into an Agency of Health Care Administration and an Agency of Human Services as described in this act. Costs may include contracts for finance, accounting, federal funding, and organizational and operational restructuring consultations.

And by renumbering the existing Sec. 15, effective dates, to be Sec. 16

And that when so amended the bill ought to pass.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation of amendment of the Committee on Government Operations was amended as recommended by the Committee on Appropriations.

Thereupon, the pending question, Shall the bill be amended as recommended by the Committee on Government Operations, as amended?, was decided in the affirmative.

Thereupon, third reading of the bill was ordered.

Rules Suspended; Bill Committed

S. 230.

Pending entry on the Calendar for notice, on motion of Senator Ashe, the rules were suspended and Senate bill entitled:

An act relating to improving the siting of energy projects.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Natural Resources and Energy, Senator Ashe moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the report of the Committee on Natural Resources and Energy and the Committee on Finance *intact*,

Which was agreed to.

Adjournment

On motion of Senator Baruth, the Senate adjourned until one o'clock in the afternoon on Thursday, March 24, 2016.

THURSDAY, MARCH 24, 2016

Pursuant to the Senate Rules, in the absence of the President, the Senate was called to order by the President *pro tempore*.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 38

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 130. An act relating to the Agency of Public Safety.

H. 743. An act relating to fair and impartial policing.

In the passage of which the concurrence of the Senate is requested.

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 48. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 130.

An act relating to the Agency of Public Safety.

To the Committee on Government Operations.

H. 743.

An act relating to fair and impartial policing.

To the Committee on Judiciary.

Bill Amended; Bill Passed

S. 245.

Senate bill entitled:

An act relating to disclosure of health care provider affiliations.

Was taken up.

Thereupon, pending third reading of the bill, Senators Ayer, Ashe, Collamore, Lyons, Pollina and Sirotkin moved to amend the bill by adding a new section to be numbered Sec. 2 to read as follows:

Sec. 2. 18 V.S.A. § 9405c is added to read:

§ 9405c. NOTICE OF AFFILIATION

(a) Each hospital shall provide notice to the Office of the Attorney General at least 90 days or as soon as practicable prior to the effective date of a transaction that will result in a new affiliation between the hospital and one or more health care providers or between the hospital and a group medical practice. The notice shall include at least the following information:

(1) the name and address of the hospital acquiring the provider, providers, or group medical practice and contact information for a representative of the hospital; and

(2) the name and address of the provider, providers, or group medical practice being acquired and contact information for a representative of the provider, providers, or practice.

(b) Information provided to the Office of the Attorney General pursuant to this section is exempt from public inspection and copying under the Public Records Act and shall be kept confidential except to the extent necessary to allow the Office to perform an inquiry into potentially anticompetitive practices.

And by renumbering the existing Sec. 2, effective date, to be Sec. 3.

Which was agreed to.

Thereupon, pending third reading of the bill, Senator Ashe, Sirotkin, and Zuckerman moved to amend the bill by striking out Sec. 3, effective date, in its entirety and inserting in lieu thereof the following:

Sec. 3. 33 V.S.A. § 1905a is added to read:

§ 1905a. MEDICAID REIMBURSEMENTS TO CERTAIN OUTPATIENT PROVIDERS

(a) The Department of Vermont Health Access shall not increase a provider's Medicaid reimbursement rates for outpatient medical services provided at an off-campus outpatient department of a hospital as a result of the provider's transfer to or acquisition by the hospital.

(b) As used in this section, "off-campus" means a facility located more than 250 yards from the main hospital campus.

Sec. 4. PROVIDER REIMBURSEMENT; REPORT

The Green Mountain Care Board shall consider the advisability and feasibility of expanding to commercial health insurers the prohibition on increased reimbursement rates for health care providers newly transferred to or acquired by a hospital as described in Sec. 3 of this act. On or before December 1, 2016, the Green Mountain Care Board shall report its findings and recommendations to the House Committee on Health Care and the Senate Committees on Health and Welfare and on Finance, including its recommendations for the process and timing of implementation of the reimbursement restrictions.

Sec. 5. REDUCING PAYMENT DIFFERENTIALS; GUIDANCE AND IMPLEMENTATION; REPORT

(a) On or before July 15, 2016, the Green Mountain Care Board shall provide to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance a copy of each implementation plan for providing fair and equitable reimbursement amounts for professional services provided by academic medical centers and by other professionals, as required to be developed by

health insurers pursuant to 2015 Acts and Resolves No. 54, Sec. 23(b), as amended by this act.

(b) No later than 30 days following the Board's review of each implementation plan pursuant to 2015 Acts and Resolves No. 54, Sec. 23(b) but in no event later than December 1, 2016, the Board shall report to the Health Reform Oversight Committee, the House Committee on Health Care, and the Senate Committees on Health and Welfare and on Finance on its progress toward achieving fair and equitable reimbursement amounts for professional services provided by academic medical centers and by other professionals, without increasing health insurance premiums or public funding of health care, as required by 2015 Acts and Resolves No. 54, Sec. 23(b), as amended by this act.

Sec. 6. EFFECTIVE DATES

(a) Sec. 1 and Sec. 2 (notice to patients of new affiliation) shall take effect on July 1, 2016.

(b) Sec. 3 (33 V.S.A. § 1905a) shall take effect on July 1, 2016 and shall apply to all providers transferred to or acquired by a hospital on or after the date of passage of this act.

(c) Secs. 4 and 5 (Green Mountain Care Board reports) and this section shall take effect on passage.

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Bill Passed

S. 107.

Senate a bill of the following title:

An act relating to the Agency of Health Care Administration.

Was taken up.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 21, Nays 6.

Senator Degree having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Balint, Benning, Bray, Campion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, MacDonald, Mazza, Mullin, Nitka, Rodgers, Sears, Sirotkin, Starr, Westman, White.

Those Senators who voted in the negative were: Ayer, Baruth, Lyons, McCormack, Pollina, Zuckerman.

Those Senators absent or not voting were: Campbell (presiding), McAllister (suspended), Snelling.

Bill Passed in Concurrence

H. 565.

House bill of the following title was read the third time and passed in concurrence:

An act relating to United Methodist Church property.

Joint Resolution Adopted in Concurrence

J.R.H. 24.

Joint House resolution of the following title was read and adopted in concurrence:

Joint resolution authorizing the Green Mountain Girls State educational program to use the State House.

Senate Resolution Adopted

S.R. 11.

Senate resolution entitled:

Senate resolution relating to amending the permanent rules of the Senate.

Having been placed on the Calendar for action, was taken up and adopted.

Sexual Harassment Policy Journalized

On motion of Senator Baruth, the policy on sexual harassment covering the conduct of the members of the Senate, and its officers and employees, as adopted by the Committee on Rules pursuant to the provisions of Rule 101, was ordered entered in the Journal, and is as follows:

Vermont Senate Policy for the Prevention of Sexual Harassment

It is the policy of the Vermont Senate to provide a professional working environment free from harassment. Therefore, the Senate is opposed to, and prohibits without qualification, sexual harassment.

This policy covers the conduct of Senators and persons employed by the President Pro Tempore and the Senate Secretary's office. This policy is intended not only to protect Senators and employees of these offices, but others, including members of the public, lobbyists, advocates, and members of the press who suffer harassment attributable to a Senator or employee of these

offices. The conduct of others interacting with Senators and persons employed by the Senate may be covered by other policies referenced herein.

Sexual harassment undermines the integrity of the State House environment, demonstrates a lack of respect for the rights of others, lowers morale, interferes with work effectiveness, and violates a person's sense of well-being. Not only sexual harassment but also retaliation for reporting harassment or cooperating in an investigation of harassment are prohibited by this policy, and all complaints will be handled in a speedy and impartial manner.

Definition and Examples of Sexual Harassment

Sexual harassment is a form of sex discrimination and means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of employment;
2. submission to or rejection of such conduct by an individual is used as a component of the basis for employment decisions affecting the individual; or
3. the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or of creating an intimidating, hostile, or offensive working environment.

Examples of sexual harassment include the following when the acts or behavior come within one of the above definitions:

- either explicitly or implicitly conditioning any term of employment (e.g., continued employment, wages, evaluation, advancement, assigned duties or shifts) on the provision of sexual favors;
- touching or grabbing a sexual part of a person's body;
- touching or grabbing any part of a person's body after that person has indicated that such physical contact is unwelcome;
- continuing to ask a person to socialize on or off duty when that person has indicated a lack of interest;
- displaying or transmitting sexually suggestive pictures, objects, cartoons, posters, or other visual matter if it is known or should be known that the behavior is unwelcome;
- continuing to write sexually suggestive notes or letters if it is known or should be known that the person does not welcome such behavior;

- referring to or calling a person a sexualized name if it is known or should be known that the person does not welcome such behavior;
- regularly telling sexual jokes or using sexually vulgar or explicit language in the presence of a person if it is known or should be known that the person does not welcome such behavior;
- retaliation of any kind for having filed or supported a complaint of sexual harassment (e.g., ostracizing the person, pressuring the person to drop or not support the complaint, or adversely altering that person's duties or work environment);
- derogatory or provocative remarks about or relating to a person's sex or sexual orientation;
- harassing acts or behavior directed against a person on the basis of the person's sex or sexual orientation; and
- off-duty conduct which falls within the above definitions and affects the work environment.

Procedures and Confidentiality

A person may make a complaint to a member of the Senate Sexual Harassment Panel who will thoroughly explain the complaint process and other options for resolution.

1. Any person who believes that a member or an employee of the Senate has sexually harassed him or her has a number of avenues of resolution. The person is encouraged, but not required, to identify objectionable actions to those responsible, and to try to resolve issues informally. This policy provides for a procedure if this approach is ineffective, or if the person chooses not to attempt such an informal resolution.

2. If the person decides to pursue a formal process, complaints must be in writing and signed by the Complainant. A complaint may be made by any person, but it must be in regard to alleged misconduct committed by a member during the current biennium, or during the period between when the Senate adjourned during the last year of the prior biennium and the end of the current biennium. Complaints may be given to any member of the Panel. If a Panel member other than the Chair receives a complaint, he or she shall immediately notify the Chair and give the written complaint to the Chair.

3. The Panel shall provide the Respondent a copy of the complaint. The Respondent may file a response with the Panel, a copy of which the Panel shall provide to the Complainant. The Panel may then begin an

investigation. No Panel member shall participate as a Panel member for a report for which the Panel member is the Complainant or Respondent.

4. Investigations. An investigation includes interviewing witnesses and collecting any available documents.

    A. Confidentiality. The investigation shall be confidential.

    B. Outcome of investigation.

        i. If the Panel determines there is not enough evidence to support a charge of a violation, the complaint shall be closed and remain confidential.

            I. Notice of the Panel's decision shall be sent to the Complainant and to the Respondent.

            II. The Panel may reopen a closed complaint in the future in the case of a subsequent complaint.

        ii. If the Panel determines there are reasonable grounds to believe the Respondent committed a violation and the complaint is not closed as provided in i above:

            I. The Panel may enter into a mutually agreed to resolution with the Respondent and the Complainant.

            II. The Panel may enter into a confidential stipulation with the Respondent that may include a warning or discipline, such as a reprimand. The Panel shall advise the Complainant of the remedial action taken.

            III. If the Respondent chooses not to enter into a stipulation, the Panel shall draft charges and set the matter for a hearing. The Complainant and the Respondent shall receive a copy of the charges and the details regarding the time, date, and location of the hearing. The Respondent may file an answer to the charges, a copy of which the Panel shall provide to the Complainant.

5. Hearings.

    A. General. The Panel shall conduct a hearing in which the Respondent may present his or her position, present evidence,

call witnesses, and question witnesses called by the Panel. The Chair of the Panel shall preside and if necessary the Panel may hire independent counsel to serve as a nonvoting hearing officer. The Senate Secretary shall provide legal advice and administrative support to the Panel. The Respondent may hire his or her own counsel at the Respondent's expense.

B. Confidentiality. The hearing shall be closed to the public, unless the Respondent and Complainant agree that it be open to the public.

C. Rules of procedure and evidence. The Panel shall not be bound by technical rules of evidence and may admit evidence that the Panel considers to be reliable, material, and relevant. The Chair shall make evidentiary rulings, which may be overruled by a majority of the Panel present at the hearing. The decision of the Panel cannot be based solely on hearsay evidence.

D. Burden of proof. Burden of proof that a violation occurred is clear and convincing evidence. This standard indicates that the alleged violation is highly probable or reasonably certain. Evidence is "clear" if it is certain, unambiguous, and plain to the understanding; and it is "convincing" if it is reasonable and persuasive enough to cause the Panel to believe it.

6. Findings.

A. If the Panel finds that a violation did not occur, it shall dismiss the complaint. This dismissal shall be confidential. Notice of dismissal shall be sent to the Complainant and the Respondent.

B. If the Panel finds that a violation occurred, a meeting shall be held with the Senate Rules Committee, or Joint Rules Committee where appropriate, to determine the appropriate course of action.

7. Time periods.

A. When the General Assembly is in session: The Panel shall determine whether there are reasonable grounds to believe that a violation of this policy has occurred within 48 hours of receiving a written complaint, and shall conclude any investigation and issue findings within two weeks.

B. When the General Assembly is not in session: The Panel shall determine whether there are reasonable grounds to believe that a violation of this policy has occurred, and shall conclude any investigation and issue findings as soon as reasonably possible.

8. Confidentiality and maintenance of records.

A. Confidentiality.

i. Members of the Panel and the Secretary's Office shall keep confidential any information received and any records produced or acquired in accordance with this Procedure.

ii. All records produced or acquired in accordance with this Procedure are not subject to the Public Records Act.

B. Maintenance of records. The Secretary's office shall maintain any records produced or acquired in accordance with this Procedure.

Other State House Policies and Panels

As noted above, this policy covers the conduct of Senators and persons employed by the President Pro Tempore and the Secretary's office. In addition to this policy, the House of Representatives has a policy that covers the conduct of Representatives and persons employed by the Speaker and the Clerk's office. Any complaints concerning the conduct of employees of the Joint Fiscal Office, the Office of Legislative Council, and the Sergeant at Arms that would not be within the jurisdiction of the House or Senate Panels shall be adjudicated by a Joint Panel composed of the House and Senate Panels. If the Joint Panel meets in 2016, the Chair of the Senate Panel shall serve as the Chair of the Joint Panel, and the Joint Panel shall follow the Senate Policy. If the Joint Panel meets in 2017 or 2018, the Chair of the House Panel shall serve as the Chair of the Joint Panel, and the Joint Panel shall follow the House Policy. Thereafter, the Chair of the Joint Panel and the Policy that shall be followed shall rotate biennially between the Senate and the House Panels. It is the intent of the General Assembly that all policies will be applied in a consistent manner. The following chart indicates what panel will adjudicate different complaints.

Adjudication of Complaints		
Accused	**Complainant**	**Panel**
Representative, staff of Speaker's office or Clerk's office	Representative, staff from any office, member of public	House
Senator, staff of	Senator, staff from any	Senate

President Pro Tempore's office or Secretary's office	office, member of public	
Representative	Senator	House
Senator	Representative	Senate
The Sergeant at Arms and any person employed by the Joint Fiscal Office, the Office of Legislative Council, and the Sergeant at Arms	Representative, Senator, staff from any office, member of public	Joint

Although persons subject to this policy are encouraged to use this policy, a complaint may also be made to court through a private attorney or to any of the following:

- Equal Employment Opportunity Commission (EEOC), John F. Kennedy Federal Building, 475 Government Center, Boston, MA 02203, tel. (800) 669-4000
- Vermont Human Rights Commission, 14-16 Baldwin St., Montpelier, VT 05633, tel. (800) 416-2010
- Vermont Attorney General, Civil Rights Unit, 109 State St., Montpelier, VT 05609, tel. (802) 828-3657

Appointments Confirmed

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

Kainen, Michael R. of White River Junction - Superior Judge – January 12, 2016, to March 31, 2017.

Valentine, Brian of Huntington - Magistrate – September 10, 2015, to March 31, 2021.

Morrissey, Mary of Jericho - Superior Judge - February 5, 2016, to March 31, 2017.

Schoonover, Kirstin of Huntington - Superior Judge – September 10, 2015, to March 31, 2017.

Adjournment

On motion of Senator Baruth, the Senate adjourned until eleven o'clock and thirty minutes in the morning.

FRIDAY, MARCH 25, 2016

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 39

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 552. An act relating to threatened and endangered species.

H. 562. An act relating to professions and occupations regulated by the Office of Professional Regulation and to the review of professional regulation.

In the passage of which the concurrence of the Senate is requested.

Message from the House No. 40

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has adopted House concurrent resolutions of the following titles:

H.C.R. 287. House concurrent resolution congratulating the 2016 Proctor High School Phantoms Division IV boys' basketball championship team.

H.C.R. 288. House concurrent resolution honoring the federal TRIO programs in Vermont.

H.C.R. 289. House concurrent resolution congratulating the 2016 Enosburg High School Hornets Division III girls' basketball championship team.

H.C.R. 290. House concurrent resolution designating April 2016 as the Month of the Military Child in Vermont.

H.C.R. 291. House concurrent resolution congratulating the 2016 Lyndon Institute Vikings Division II championship boys' basketball team.

H.C.R. 292. House concurrent resolution congratulating the 2016 Lyndon Institute Vikings Division II boys' indoor track and field championship team.

H.C.R. 293. House concurrent resolution commemorating the founding of the Reserve Officers' Training Corps at Norwich University on its centennial anniversary .

H.C.R. 294. House concurrent resolution congratulating the 2016 Windsor High School Yellow Jackets State championship bowling team.

H.C.R. 295. House concurrent resolution congratulating the Rutland Area Visiting Nurse Association & Hospice on its 60th anniversary.

H.C.R. 296. House concurrent resolution congratulating the 2016 Hazen Union High School Wildcats Division III championship boys' basketball team.

H.C.R. 297. House concurrent resolution congratulating the 2016 Fair Haven Union High School Slaters Division II championship girls' basketball team.

H.C.R. 298. House concurrent resolution designating March 23, 2016 as Disability Awareness Day at the State House.

H.C.R. 299. House concurrent resolution recognizing the important health care value of the new five-year 2020 Vermont Cancer Plan.

H.C.R. 300. House concurrent resolution honoring Griffin MacFadyen of Dover on his outstanding achievements on the slopes, in the classroom, and in the community.

H.C.R. 301. House concurrent resolution congratulating Bethany Berger as the runner-up in the 2016 National Best Bagger competition.

In the adoption of which the concurrence of the Senate is requested.

The House has considered concurrent resolution originating in the Senate of the following title:

S.C.R. 40. Senate concurrent resolution designating July 2016 as Park and Recreation Month in Vermont.

And has adopted the same in concurrence.

Bill Referred to Committee on Rules

S. 242.

Senate bill of the following title, appearing on the Calendar for notice, under Temporary Rule 44A, was referred to the Committee on Rules:

An act relating to the service of civil process by a constable.

Bill Referred to Committee on Appropriations

House bill of the following title, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, was referred to the Committee on Appropriations:

H. 183.

An act relating to security in the Capitol Complex.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 552.

An act relating to threatened and endangered species.

To the Committee on Natural Resources and Energy.

H. 562.

An act relating to professions and occupations regulated by the Office of Professional Regulation and to the review of professional regulation.

To the Committee on Government Operations.

Bill Amended; Bill Passed

S. 220.

Senate bill entitled:

An act relating to the public financing of campaigns.

Was taken up.

Thereupon, pending third reading of the bill, Senator Zuckerman moved that the bill be amended as follows:

First: By striking out Sec. 1, 17 V.S.A. § 2981 (definitions), in its entirety and inserting in lieu thereof a new Sec. 1, 17 V.S.A. § 2981 to read as follows:

Sec. 1. 17 V.S.A. § 2981 is amended to read:

§ 2981. DEFINITIONS

As used in this subchapter:

* * *

(4) "Vermont campaign finance qualification period" means one of the following periods within which a candidate who intends to seek Vermont campaign finance grants shall be required to obtain qualifying contributions, as chosen by the candidate:

(A) ~~the~~ The period beginning on or after February 15 of each even-numbered year and ending on the date on which primary petitions must be filed under section 2356 of this title.

(B) A period beginning on or after the date that another candidate for the office files the declaration set forth in subsection 2967(b) of this title and ending no later than 100 days after the beginning of that period or the date on which primary petitions must be filed under section 2356 of this title, whichever occurs first. Notwithstanding the provisions of this subdivision (B) to the contrary, a period shall not begin more than one year prior to the upcoming general election.

Second: By adding a new section to be numbered Sec. 4a to read as follows:

Sec. 4a. 17 V.S.A. § 2967 is amended to read:

§ 2967. ADDITIONAL CAMPAIGN REPORTS; CANDIDATES FOR STATE OFFICE AND THE GENERAL ASSEMBLY

(a)(1) In addition to any other reports required to be filed under this chapter, a candidate for State office or for the General Assembly who accepts a monetary contribution in an amount over $2,000.00 within 10 days of a primary or general election shall report the contribution to the Secretary of State within 24 hours of receiving the contribution.

~~(b)~~(2) A report required by this section shall include the following information:

Which was agreed to.

Thereupon, the bill was read the third time and passed on a roll call, Yeas 19, Nays 6.

Senator Sears having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Collamore, Cummings, Doyle, Kitchel, Lyons, MacDonald, Nitka, Sirotkin, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Campion, Degree, Flory, Mazza, Rodgers, Sears.

Those Senators absent and not voting were: McAllister (suspended), McCormack, Mullin, Pollina, Snelling.

Third Reading Ordered

H. 575.

Senator Collamore, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to eliminating the role of town service officers in administering General Assistance benefits.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

H. 625.

Senator Campion, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to extending the exemption from encumbrance on title of properties subject to a pretransition stormwater permit.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

Proposals of Amendment; Third Reading Ordered

H. 248.

Senator Rodgers, for the Committee on Natural Resources and Energy, to which was referred House bill entitled:

An act relating to miscellaneous revisions to the air pollution statutes.

Reported recommending that the Senate propose to the House to amend the bill as follows:

First: By striking out Sec. 1 in its entirety and inserting in lieu thereof a new Sec. 1 to read as follows:

Sec. 1. [Deleted.]

Second: By striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(26) 10 V.S.A. chapter 168, relating to the collection and disposal of primary batteries; ~~and~~

(27) 10 V.S.A. chapter 123, relating to threatened and endangered species; and

(28) 30 V.S.A. § 255, relating to regional coordination to reduce greenhouse gases.

* * *

And that the bill ought to pass in concurrence with such proposals of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and pending the question, Shall the Senate propose to the House to amend the bill as recommended by the Committee on Natural Resources and Energy?, Senator Rodgers moved to amend the proposal of amendment of the Committee on Natural Resources and Energy as follows:

Third: In Sec. 6 (effective dates), by striking out the following: "2015" and inserting in lieu thereof the following: 2016

Which was agreed to.

Thereupon, the proposal of amendment of the Committee on Natural Resources and Energy, as amended was agreed to and third reading of the bill was ordered.

Proposal of Amendment; Third Reading Ordered

H. 538.

Senator Ayer, for the Committee on Finance, to which was referred House bill entitled:

An act relating to captive insurance companies.

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

* * * Captive Insurance Company Reports and Statements * * *

Sec. 1. 8 V.S.A. § 6007(c) is amended to read:

(c) Any pure captive insurance company, association captive insurance company, sponsored captive insurance company, or ~~an~~ industrial insured captive insurance company may make written application for filing the required report on a fiscal year-end. If an alternative reporting date is granted:

(1) the annual report is due 75 days after the fiscal year-end; and

(2) in order to provide sufficient detail to support the premium tax return, the pure captive insurance company, association captive insurance company, sponsored captive insurance company, or industrial insured captive insurance company shall file prior to March 15 of each year for each calendar year-end, pages 1, 2, 3, and 5 of the ~~"Captive Annual Statement; Pure or Industrial Insured,"~~ "Vermont Captive Insurance Company Annual Report verified by oath of two of its executive officers.

* * * Dormant Captive Insurance Companies * * *

Sec. 2. 8 V.S.A. § 6024 is amended to read:

§ 6024. DORMANT CAPTIVE INSURANCE COMPANIES

(a) As used in this section, unless the context requires otherwise, "dormant captive insurance company" means a pure captive insurance company ~~which~~, sponsored captive insurance company, or industrial insured captive insurance company that has:

(1) ~~at no time, insured controlled unaffiliated business;~~

~~(2)~~ ceased transacting the business of insurance, including the issuance of insurance policies; and

~~(3)~~(2) no remaining liabilities associated with insurance business transactions, or insurance policies issued prior to the filing of its application for a certificate of dormancy under this section.

(b) A ~~pure~~ captive insurance company domiciled in Vermont ~~which~~ that meets the criteria of subsection (a) of this section may apply to the Commissioner for a certificate of dormancy. The certificate of dormancy shall be subject to renewal every five years and shall be forfeited if not renewed within such time.

(c) A dormant captive insurance company ~~which~~ that has been issued a certificate of dormancy shall:

* * *

* * * Protected Cells; Conversion; Sale; Assignment; Transfer * * *

Sec. 3. 8 V.S.A. § 6034b is added to read:

§ 6034b. PROTECTED CELL CONVERSION INTO AN INCORPORATED PROTECTED CELL

(a) Subject to the prior written approval of the Commissioner, on application of the sponsor and with the prior consent of each participant of the affected protected cell or as otherwise permitted pursuant to a participation agreement, a sponsored captive insurance company or a sponsored captive insurance company licensed as a special purpose financial insurance company may convert a protected cell into an incorporated protected cell pursuant to the provisions of section 6034a of this title, without affecting the protected cell's assets, rights, benefits, obligations, and liabilities.

(b) Any such conversion shall be deemed for all purposes to be a continuation of the protected cell's existence together with all of its assets, rights, benefits, obligations, and liabilities, as an incorporated protected cell of the sponsored captive insurance company or sponsored captive insurance company licensed as a special purpose financial insurance company, as applicable. Any such conversion shall be deemed to occur without any transfer or assignment of any such assets, rights, benefits, obligations, or liabilities and without the creation of any reversionary interest in, or impairment of, any such assets, rights, benefits, obligations, and liabilities.

Sec. 4. 8 V.S.A. § 6034c is added to read:

§ 6034c. SALE, TRANSFER, OR ASSIGNMENT OF PROTECTED CELLS

(a) Subject to the prior written approval of the Commissioner, on application of the sponsor and with the prior consent of each participant of the affected protected cell or as otherwise permitted pursuant to a participation agreement, or the consent of the affected incorporated protected cell, a sponsored captive insurance company or a sponsored captive insurance company licensed as a special purpose financial insurance company may sell, transfer, assign, and otherwise convey a protected cell or incorporated protected cell together with all of the protected cell's assets, rights, benefits, obligations, and liabilities to a new or existing sponsored captive insurance company or sponsored captive insurance company licensed as a special purpose financial insurance company, pursuant to a plan or plans of operation approved by the Commissioner.

(b) Any such sale, transfer, assignment, or conveyance shall be deemed for all purposes to be a continuation of the protected cell's existence together with all of its assets, rights, benefits, obligations, and liabilities, as a protected cell of the transferee.

(c) Any such sale, transfer, assignment, or conveyance shall not be construed to limit any rights or protections applicable to the transferred protected cell or incorporated protected cell and the transferor sponsored captive insurance company or sponsored captive insurance company licensed as a special purpose financial insurance company under this subchapter or under section 6048n of this title, as applicable, that existed immediately prior to any such sale, transfer, assignment, or conveyance.

Sec. 5. 8 V.S.A. § 6034d is added to read:

§ 6034d. PROTECTED CELL CONVERSION

(a)(1) Subject to the prior written approval of the Commissioner, on application of the sponsor and with the prior consent of each participant of the affected protected cells or as otherwise permitted pursuant to a participation agreement and the consent of each affected incorporated protected cell, a sponsored captive insurance company or a sponsored captive insurance company licensed as a special purpose financial insurance company may convert one or more protected cells or incorporated protected cells into a:

(A) single protected cell or incorporated protected cell;

(B) new sponsored captive insurance company;

(C) new sponsored captive insurance company licensed as a special purpose financial insurance company;

(D) new special purpose financial insurance company;

(E) new pure captive insurance company;

(F) new risk retention group;

(G) new industrial insured captive insurance company; or

(H) new association captive insurance company.

(2) Any such conversion shall be subject to section 6031 and subchapters 1 and 4 of this title, as applicable, as well as to a plan or plans of operation approved by the Commissioner, without affecting any protected cell's or incorporated protected cell's assets, rights, benefits, obligations, and liabilities.

(b) Any such conversion shall be deemed for all purposes to be a continuation of each such protected cell's or incorporated protected cell's existence together with all of its assets, rights, benefits, obligations, and

liabilities, as a new protected cell or incorporated protected cell, a licensed sponsored captive insurance company, a sponsored captive insurance company licensed as a special purpose financial insurance company, a special purpose financial insurance company, a pure captive insurance company, a risk retention group, an industrial insured captive insurance company, or an association captive insurance company, as applicable. Any such conversion shall be deemed to occur without any transfer or assignment of any such assets, rights, benefits, obligations, or liabilities and without the creation of any reversionary interest in, or impairment of, any such assets, rights, benefits, obligations, and liabilities.

(c) Any such conversion shall not be construed to limit any rights or protections applicable to any converted protected cell or incorporated protected cell and such sponsored captive insurance company or sponsored captive insurance company licensed as a special purpose financial insurance company under this subchapter or under subchapter 4 of this title, as applicable, that existed immediately prior to the date of any such conversion.

* * * Risk Retention Groups; Governance Standards * * *

Sec. 6. 8 V.S.A. § 6052(g) is amended to read:

(g) This subsection establishes governance standards for a risk retention group.

(1) As used in this subsection:

(A) "Board of directors" or "board" means the governing body of a risk retention group elected by risk retention group members to establish policy, elect or appoint officers and committees, and make other governing decisions.

(B) "Director" means a natural person designated in the articles of the risk retention group or designated, elected, or appointed by any other manner, name, or title to act as a ~~director~~ member of the governing body of the risk retention group.

(C) "Independent director" means a director who does not have a material relationship with the risk retention group. A person that is a direct or indirect owner of or subscriber in the risk retention group - or is an officer, director, or employee of such an owner and insured, unless some other position of such officer, director, or employee constitutes a "material relationship" - as contemplated under subdivision 3901(a)(4)(E)(ii) of the federal Liability Risk Retention Act, is considered to be "independent." A director has a material relationship with a risk retention group if he or she, or a member of his or her immediate family:

(i) In any 12-month period, receives from the risk retention group, or from a consultant or service provider to the risk retention group, compensation or other item of value in an amount equal to or greater than five percent of the risk retention group's gross written premium or two percent of the risk retention group's surplus, as measured at the end of any fiscal quarter falling in such 12-month period, whichever is greater. This provision also applies to compensation or items of value received by any business with which the director is affiliated. Such material relationship shall continue for one year after the item of value is received or the compensation ceases or falls below the threshold established in this subdivision, as applicable.

(ii) Has a relationship with an auditor as follows: Is affiliated with or employed in a professional capacity by a current or former internal or external auditor of the risk retention group. Such material relationship shall continue for one year after the affiliation or employment ends.

(iii) Has a relationship with a related entity as follows: Is employed as an executive officer of another company whose board of directors includes executive officers of the risk retention group, unless a majority of the membership of such other company's board of directors is the same as the membership of the board of directors of the risk retention group. Such material relationship shall continue until the employment or service ends.

(D) "Material service provider" includes a captive manager, auditor, accountant, actuary, investment advisor, attorney, managing general underwriter, or other person responsible for underwriting, determination of rates, premium collection, claims adjustment or settlement, or preparation of financial statements, whose aggregate annual contract fees are equal to or greater than five percent of the risk retention group's annual gross written premium or two percent of its surplus, whichever is greater. It does not mean defense counsel retained by a risk retention group, unless his or her annual fees ~~are~~ have been equal to or greater than five percent of a risk retention group's annual gross premium or two percent of its surplus, whichever is greater, during three or more of the previous five years.

(2) The board shall have a majority of independent directors. The board of directors shall determine whether a director is independent; review such determinations annually; and maintain a record of the determinations, which shall be provided to the Commissioner promptly, upon request. ~~The board shall have a majority of independent directors. If the risk retention group is reciprocal, then the attorney-in-fact is required to adhere to the same standards regarding independence as imposed on the risk retention group's board of directors~~ If the Commissioner disagrees with the board's determination regarding independence, the board, within six months, shall take such actions

as are necessary in order to obtain written confirmation from the Commissioner that the board meets the independence requirements set forth in this subdivision (1)(C) of this subsection.

(3) The term of any material service provider contract entered into with a risk retention group shall not exceed five years. The contract, or its renewal, requires approval of a majority of the risk retention group's independent directors. The board of directors has the right to terminate a contract at any time for cause after providing adequate notice, as defined in the terms of the contract.

(4) A risk retention group shall not enter into a material service provider contract without the prior written approval of the Commissioner.

(5) A risk retention group's ~~plan of operation~~ business plan shall include written policies approved by its board of directors requiring the board to:

(A) provide evidence of ownership interest to each risk retention group member;

(B) develop governance standards applicable to the risk retention group;

(C) oversee the evaluation of the risk retention group's management, including the performance of its captive manager, managing general underwriter, or other person or persons responsible for underwriting, rate determination, premium collection, claims adjustment and settlement, or preparation of financial statements;

(D) review and approve the amount to be paid under a material service provider contract; and

(E) at least annually, review and approve:

(i) the risk retention group's goals and objectives relevant to the compensation of officers and material service providers;

(ii) the performance of officers and material service providers as measured against the risk retention group's goals and objectives;

(iii) the continued engagement of officers and material service providers.

(6) A risk retention group shall have an audit committee composed of at least three independent board members. A nonindependent board member may participate in the committee's activities, if invited to do so by the audit committee, but he or she shall not serve as a committee member. The Commissioner may waive the requirement of an audit committee if the risk retention group demonstrates to the Commissioner's satisfaction that having

such committee is impracticable and the board of directors is able to perform sufficiently the committee's responsibilities. The audit committee shall have a written charter defining its responsibilities, which shall include:

(A) assisting board oversight of the integrity of financial statements, compliance with legal and regulatory requirements, and qualifications, independence, and performance of the independent auditor or actuary;

(B) reviewing quarterly financial statements and annual ~~and quarterly~~ audited financial statements with management;

(C) reviewing annual audited financial statements with its independent auditor and, if it deems advisable, the risk retention group's quarterly financial statements as well;

(D) reviewing risk assessment and risk management policies;

(E) meeting with management, either directly or through a designated representative of the committee;

(F) meeting with independent auditors, either directly or through a designated representative of the committee;

(G) reviewing with the independent auditor any audit problems and management's response;

(H) establishing clear hiring policies applicable to the hiring of employees or former employees of the independent auditor by the risk retention group;

(I) requiring the independent auditor to rotate the lead audit partner having primary responsibility for the risk retention group's audit, as well as the audit partner responsible for reviewing that audit, so that neither individual performs audit services for the risk retention group for more than five consecutive fiscal years; and

(J) reporting regularly to the board of directors.

* * *

* * * Effective Date * * *

Sec. 7. EFFECTIVE DATE

This act shall take effect on passage.

And that the bill ought to pass in concurrence with such proposal of amendment.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, the proposal of amendment was agreed to, and third reading of the bill was ordered.

Appointments Confirmed

Under suspension of the rules (and particularly, Senate Rule 93), as moved by Senator White, the following Gubernatorial appointments were confirmed together as a group by the Senate, without reports given by the Committees to which they were referred and without debate:

Bourdon, Kevin of Waltham - Member, Electricians' Licensing Board - August 25, 2015, to June 30, 2018.

Sessions, Hannah of Salisbury - Member, Vermont Housing and Conservation Board - August 25, 2015, to January 31, 2016.

Williams, Robert of Poultney - Member, Electricians' Licensing Board - July 1, 2015, to June 30, 2018.

Lauzon, Thomas of Barre - Member, Liquor Control Board - July 21, 2015, to January 31, 2020.

Appointments Confirmed

The following Gubernatorial appointments were confirmed separately by the Senate, upon full reports given by the Committees to which they were referred:

Cole, Christopher of Richmond - Secretary, Transportation, Agency of - September 12, 2015, to February 28, 2017.

Committee Relieved of Further Consideration; Bill Committed

H. 111.

On motion of Senator Baruth, the Committee on Economic Development, Housing and General Affairs was relieved of further consideration of House bill entitled:

An act relating to the removal of grievance decisions from the Vermont Labor Relations Board’s website,

and the bill was committed to the Committee on Government Operations.

Senate Concurrent Resolution

The following joint concurrent resolution, having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, was adopted on the part of the Senate:

By Senators Mazza, Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Campion, Collamore, Cummings, Degree, Doyle, Flory, Kitchel, Lyons,

MacDonald, McCormack, Mullin, Nitka, Pollina, Rodgers, Sears, Sirotkin, Snelling, Starr, Westman, White and Zuckerman,

S.C.R. 40.

Senate concurrent resolution designating July 2016 as Park and Recreation Month in Vermont.

House Concurrent Resolutions

The following joint concurrent resolutions having been placed on the consent calendar on the preceding legislative day, and no Senator having requested floor consideration as provided by the Joint Rules of the Senate and House of Representatives, were severally adopted in concurrence:

By Representative Potter and others,

H.C.R. 287.

House concurrent resolution congratulating the 2016 Proctor High School Phantoms Division IV boys' basketball championship team.

By Representative Jerman and others,

H.C.R. 288.

House concurrent resolution honoring the federal TRIO programs in Vermont.

By Representative Fiske and others,

By Senator Degree,

H.C.R. 289.

House concurrent resolution congratulating the 2016 Enosburg High School Hornets Division III girls' basketball championship team.

By Representative Head and others,

H.C.R. 290.

House concurrent resolution designating April 2016 as the Month of the Military Child in Vermont.

By Representatives Lawrence and Feltus,

By Senators Benning and Kitchel,

H.C.R. 291.

House concurrent resolution congratulating the 2016 Lyndon Institute Vikings Division II championship boys' basketball team.

By Representatives Lawrence and Feltus,

By Senators Benning and Kitchel,

H.C.R. 292.

House concurrent resolution congratulating the 2016 Lyndon Institute Vikings Division II boys' indoor track and field championship team.

By Representative Donahue and others,

By Senators Cummings, Doyle and Pollina,

H.C.R. 293.

House concurrent resolution commemorating the founding of the Reserve Officers' Training Corps at Norwich University on its centennial anniversary .

By Representatives Sweaney and Bartholomew,

H.C.R. 294.

House concurrent resolution congratulating the 2016 Windsor High School Yellow Jackets State championship bowling team.

By Representative Burditt and others,

By Senators Collamore, Flory and Mullin,

H.C.R. 295.

House concurrent resolution congratulating the Rutland Area Visiting Nurse Association & Hospice on its 60th anniversary.

By Representative Troiano and others,

H.C.R. 296.

House concurrent resolution congratulating the 2016 Hazen Union High School Wildcats Division III championship boys' basketball team.

By Representative Canfield and others,

By Senators Collamore, Flory, Mullin, Ayer and Bray,

H.C.R. 297.

House concurrent resolution congratulating the 2016 Fair Haven Union High School Slaters Division II championship girls' basketball team.

By Representative Botzow and others,

H.C.R. 298.

House concurrent resolution designating March 23, 2016 as Disability Awareness Day at the State House.

By Representative Ram and others,

H.C.R. 299.

House concurrent resolution recognizing the important health care value of the new five-year 2020 Vermont Cancer Plan.

By Representatives Sibilia and Olsen,

By Senator Balint,

H.C.R. 300.

House concurrent resolution honoring Griffin MacFadyen of Dover on his outstanding achievements on the slopes, in the classroom, and in the community.

By Representative Purvis and others,

By Senators Mazza and Degree,

H.C.R. 301.

House concurrent resolution congratulating Bethany Berger as the runner-up in the 2016 National Best Bagger competition.

Adjournment

On motion of Senator Campbell, the Senate adjourned, to reconvene on Tuesday, March 29, 2016, at nine o'clock and thirty minutes in the forenoon pursuant to J.R.S. 48.

TUESDAY, MARCH 29, 2016

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Reverend Nancy McHugh of Waitsfield.

Pledge of Allegiance

The President then led the members of the Senate in the pledge of allegiance.

Message from the House No. 41

A message was received from the House of Representatives by Ms. Melissa Kucserik, its First Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 620. An act relating to health insurance and Medicaid coverage for contraceptives.

H. 864. An act relating to agricultural exemption from Vermont's sales and use tax.

H. 872. An act relating to Executive Branch fees.

H. 873. An act relating to making miscellaneous tax changes.

H. 875. An act relating to making appropriations for the support of government.

In the passage of which the concurrence of the Senate is requested.

Bill Referred to Committee on Appropriations

House bill of the following title, appearing on the Calendar for notice, and carrying an appropriation or requiring the expenditure of funds, under the rule, was referred to the Committee on Appropriations:

H. 805.

An act relating to employment rights for members of the National Guard and Reserve Components of the U.S. Armed Forces.

Joint Senate Resolution Adopted on the Part of the Senate

J.R.S. 49.

Joint Senate resolution of the following title was offered, read and adopted on the part of the Senate, and is as follows:

By Senators Baruth and Benning,

J.R.S. 49. Joint resolution relating to weekend adjournment.

Resolved by the Senate and House of Representatives:

That when the two Houses adjourn on Friday, April 1, 2016, it be to meet again no later than Tuesday, April 5, 2016.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 620.

An act relating to health insurance and Medicaid coverage for contraceptives.

To the Committee on Finance.

H. 864.

An act relating to agricultural exemption from Vermont's sales and use tax.

To the Committee on Finance.

H. 872.

An act relating to Executive Branch fees.

To the Committee on Finance.

H. 873.

An act relating to making miscellaneous tax changes.

To the Committee on Finance.

H. 875.

An act relating to making appropriations for the support of government.

To the Committee on Appropriations.

Bill Passed in Concurrence with Proposal of Amendment

H. 538.

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to captive insurance companies.

Bills Passed in Concurrence

House bills of the following titles were severally read the third time and passed in concurrence:

H. 575. An act relating to eliminating the role of town service officers in administering General Assistance benefits.

H. 625. An act relating to extending the exemption from encumbrance on title of properties subject to a pretransition stormwater permit.

Third Reading Ordered

H. 548.

Senator Westman, for the Committee on Finance, to which was referred House bill entitled:

An act relating to extraordinary dividends for life insurers.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered.

H. 622.

Senator Pollina, for the Committee on Health and Welfare, to which was referred House bill entitled:

An act relating to obligations for reporting child abuse and neglect and cooperating in investigations of child abuse and neglect.

Reported that the bill ought to pass in concurrence.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and third reading of the bill was ordered on a division of the Senate Yeas 15, Nays 8.

Resignation of Senator

The following communication was received by the Secretary from the Honorable Diane B. Snelling, Senator from Chittenden District, notifying the Senate of her resignation from the Senate, which letter is as follows:

March 29, 2016

Honorable Peter E. Shumlin
Governor of the State of Vermont
State House
Montpelier, Vermont 05633

Dear Governor Shumlin:

It has been a privilege and an honor to represent the people of Chittenden County in the Vermont State Senate.

At this time, I'm pleased to accept the appointment as Chair, of the Natural Resources Board and hereby resign my seat in the Senate.

I look forward to working together to meet the challenges ahead.

Respectfully,

/s/ Diane B. Snelling

Diane B. Snelling
State Senator
Chittenden District

Cc: Philip B. Scott, Lieutenant Governor
John F. Campbell, President *pro tempore*
John H. Bloomer, Jr., Secretary of the Senate

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Wednesday, March 30, 2016.

WEDNESDAY, MARCH 30, 2016

The Senate was called to order by the President.

Devotional Exercises

A moment of silence was observed in lieu of devotions.

Message from the House No. 42

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has passed House bills of the following titles:

H. 206. An act relating to regulating notaries public.

H. 519. An act relating to approval of the adoption and codification of the charter of the Town of Brandon.

H. 859. An act relating to special education.

In the passage of which the concurrence of the Senate is requested.

Message from the Governor

A message was received from His Excellency, the Governor, by Susan Allen, Secretary of Civil and Military Affairs, as follows:

Mr. President:

I am directed by the Governor to deliver to the Senate a communication in writing.

Appointment Journalized

The President laid before the Senate the following communication from His Excellency, the Honorable Peter E. Shumlin, Governor of the State of Vermont, relating to the appointment of a new Senator from the District of Chittenden, which was ordered entered in the Journal, and is as follows:

"State of Vermont
Executive Department
Montpelier

March 30, 2016

The Honorable Philip B. Scott
President
Vermont State Senate
State House
Montpelier, VT 05633-5501

Dear Mr. President:

I have the honor to inform you that I have appointed

HELEN S. RIEHLE, of South Burlington

to serve the unexpired term of Diane B. Snelling, Senator from Chittenden District.

Sincerely,

/s/ Peter E. Shumlin

Peter E. Shumlin
Governor"

Oath Administered; New Senator Seated

Thereupon, the Senate-appointee, Helen S. Riehle, was escorted to the bar of the Senate by Senator Baruth of Chittenden District, Senator Benning of Caledonia District, Senator Cumming of Washington District and Senator MacDonald of Orange District, and took and subscribed the oath of office required by the Constitution from Lieutenant Governor Philip B. Scott.

The new Senator then took her seat and assumed her legislative duties.

Rules Suspended; Bill Committed

S. 184.

Pending entry on the Calendar for notice, on motion of Senator White, the rules were suspended and Senate bill entitled:

An act relating to establishing a State Ethics Commission.

Was taken up for immediate consideration.

Thereupon, pending the reading of the report of the Committee on Government Operations, Senator White moved that Senate Rule 49 be suspended in order to commit the bill to the Committee on Appropriations with the report of the Committee on Government Operations *intact*,

Which was agreed to.

Bills Referred

House bills of the following titles were severally read the first time and referred:

H. 206.

An act relating to regulating notaries public.

To the Committee on Government Operations.

H. 519.

An act relating to approval of the adoption and codification of the charter of the Town of Brandon.

To the Committee on Government Operations.

H. 859.

An act relating to special education.

To the Committee on Education.

Bill Passed in Concurrence with Proposal of Amendment

H. 248.

House bill of the following title was read the third time and passed in concurrence with proposal of amendment:

An act relating to miscellaneous revisions to the air pollution statutes.

Bill Passed in Concurrence

H. 548.

House bill of the following title was read the third time and passed in concurrence:

An act relating to extraordinary dividends for life insurers.

Proposal of Amendment; Third Reading Ordered

S. 230.

Senator Bray, for the Committee on Natural Resources and Energy, to which was referred Senate bill entitled:

An act relating to improving the siting of energy projects.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Designation * * *

Sec. 1. DESIGNATION OF ACT

This act shall be referred to as the Energy Development Improvement Act.

* * * Integration of Energy and Land Use Planning * * *

Sec. 2. 24 V.S.A. § 4302 is amended to read:

§ 4302. PURPOSE; GOALS

* * *

(c) In addition, this chapter shall be used to further the following specific goals:

(1) To plan development so as to maintain the historic settlement pattern of compact village and urban centers separated by rural countryside.

(A) Intensive residential development should be encouraged primarily in areas related to community centers, and strip development along highways should be discouraged.

(B) Economic growth should be encouraged in locally designated growth areas, employed to revitalize existing village and urban centers, or both, and should be encouraged in growth centers designated under chapter 76A of this title.

(C) Public investments, including the construction or expansion of infrastructure, should reinforce the general character and planned growth patterns of the area.

(D) Development should be undertaken in accordance with smart growth principles as defined in subdivision 2791(13) of this title.

(2) To provide a strong and diverse economy that provides satisfying and rewarding job opportunities and that maintains high environmental standards, and to expand economic opportunities in areas with high unemployment or low per capita incomes.

* * *

(4) To provide for safe, convenient, economic, and energy efficient transportation systems that respect the integrity of the natural environment, including public transit options and paths for pedestrians and bicyclers.

~~(A)~~ Highways, air, rail, and other means of transportation should be mutually supportive, balanced, and integrated.

(5) To identify, protect, and preserve important natural and historic features of the Vermont landscape, including:

(A) significant natural and fragile areas;

(B) outstanding water resources, including lakes, rivers, aquifers, shorelands, and wetlands;

(C) significant scenic roads, waterways, and views;

(D) important historic structures, sites, or districts, archaeological sites, and archaeologically sensitive areas.

(6) To maintain and improve the quality of air, water, wildlife, and land resources.

(A) Vermont's air, water, wildlife, mineral, and land resources should be planned for use and development according to the principles set forth in 10 V.S.A. § 6086(a).

(B) Vermont's water quality should be maintained and improved according to the policies and actions developed in the basin plans established by the Secretary of Natural Resources under 10 V.S.A. § 1253.

(7) To encourage the efficient use of energy and the development of renewable energy resources, consistent with the following:

(A) Vermont's greenhouse gas reduction goals under 10 V.S.A. § 578(a);

(B) Vermont's 25 by 25 goal for renewable energy under 10 V.S.A. § 580;

(C) Vermont's building efficiency goals under 10 V.S.A. § 581;

(D) State energy policy under 30 V.S.A. § 202a and the specific recommendations identified in the State energy plans adopted pursuant to 30 V.S.A. §§ 202 and 202b pertaining to the efficient use of energy and the siting and development of renewable energy resources; and

(E) the distributed renewable generation and energy transformation categories of resources to meet the requirements of the Renewable Energy Standard under 30 V.S.A. §§ 8004 and 8005.

* * *

(9) To encourage and strengthen agricultural and forest industries.

(A) Strategies to protect long-term viability of agricultural and forest lands should be encouraged and should include maintaining low overall density.

(B) The manufacture and marketing of value-added agricultural and forest products should be encouraged.

(C) The use of locally-grown food products should be encouraged.

(D) Sound forest and agricultural management practices should be encouraged.

(E) Public investment should be planned so as to minimize development pressure on agricultural and forest land.

* * *

Sec. 3. 24 V.S.A. § 4345 is amended to read:

§ 4345. OPTIONAL POWERS AND DUTIES OF REGIONAL PLANNING COMMISSIONS

Any regional planning commission created under this chapter may:

* * *

(6) Undertake studies and make recommendations on land development, urban renewal, transportation, economic, industrial, commercial, and social development, urban beautification and design improvements, historic and scenic preservation, ~~the conservation of energy and the development of renewable energy resources,~~ State capital investment plans, and wetland protection.

* * *

Sec. 4. 24 V.S.A. § 4345a is amended to read:

§ 4345a. DUTIES OF REGIONAL PLANNING COMMISSIONS

A regional planning commission created under this chapter shall:

* * *

(14) Appear before the Public Service Board to aid the Board in making determinations under 30 V.S.A. § 248 and shall have the right to appear and participate in proceedings under that statute.

* * *

(19) Undertake studies and make recommendations on the conservation of energy and the development of renewable energy resources.

Sec. 5. CLARIFICATION OF EXISTING LAW

Sec. 4 of this act, amending 24 V.S.A. § 4345a(14) (participation in Section 248 proceedings), clarifies existing law.

Sec. 6. 24 V.S.A. § 4348a is amended to read:

§ 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include the following:

(1) A statement of basic policies of the region to guide the future growth and development of land and of public services and facilities, and to protect the environment.

(2) A land use element, which shall consist of a map and statement of present and prospective land uses:

(A) indicating those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses, open spaces, and areas identified by the State, regional planning commissions or municipalities, which require special consideration for aquifer protection, wetland protection, or for other conservation purposes;

(B) indicating those areas within the region that are likely candidates for designation under sections 2793 (downtown development districts), 2793a (village centers), 2793b (new town centers), and 2793c (growth centers) of this title;

(C) indicating locations proposed for developments with a potential for regional impact, as determined by the regional planning commission, including flood control projects, surface water supply projects, industrial parks,

office parks, shopping centers and shopping malls, airports, tourist attractions, recreational facilities, private schools, public or private colleges, and residential developments or subdivisions;

(D) setting forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and services;

(E) indicating those areas that have the potential to sustain agriculture and recommendations for maintaining them which may include transfer of development rights, acquisition of development rights, or farmer assistance programs.

(3) An energy element, which may include ~~an~~ a comprehensive analysis of ~~energy~~ resources, needs, scarcities, costs, and problems within the region~~,~~ across all energy sectors, including electric, thermal, and transportation; a statement of policy on the conservation and efficient use of energy and the development and siting of distributed and utility-scale renewable energy resources~~, and~~; a statement of policy on patterns and densities of land use ~~and control devices~~ likely to result in conservation of energy; and a statement of policy on and identification of potential areas for the development and siting of renewable energy resources and areas that are inappropriate for siting those resources or particular categories or sizes of those resources.

(4) A transportation element, which may consist of a statement of present and prospective transportation and circulation facilities, and a map showing existing and proposed highways, including limited access highways, and streets by type and character of improvement, and where pertinent, anticipated points of congestion, parking facilities, transit routes, terminals, bicycle paths and trails, scenic roads, airports, railroads and port facilities, and other similar facilities or uses, and recommendations to meet future needs for such facilities, with indications of priorities of need, costs, and method of financing.

* * *

Sec. 7. 24 V.S.A. § 4352 is added to read:

§ 4352. CERTIFICATION OF ENERGY COMPLIANCE; REGIONAL AND MUNICIPAL PLANS

(a) Regional plan certification. A regional planning commission may submit its adopted regional plan to the Commissioner of Public Service appointed under 30 V.S.A. § 1 for a certification of energy compliance. The Commissioner shall issue such a certification on finding that the regional plan

is consistent with the statutes, goals, and policies listed in subdivision 4302(c)(7) of this title.

(b) Municipal plan certification. If the Commissioner of Public Service has certified a regional plan that is in effect, a municipal legislative body within the region may submit its adopted municipal plan to the regional planning commission for a certification of energy compliance. Such a submission may be made separately from or at the same time as a request for review and approval of the municipal plan under section 4350 of this title. The regional planning commission shall issue such a certification on finding that the regional plan is consistent with the statutes, goals, and policies listed in subdivision 4302(c)(7) of this title and the portions of the regional plan that implement those statutes, goals, and policies.

(c) Standards. In determining whether to issue a certification of energy compliance under this section, the Commissioner or regional planning commission shall employ the standards for issuing such a certification developed pursuant to 30 V.S.A. §§ 202(b)(6) and 202b(a)(3).

(d) Process. Review of whether to issue a certification under this section shall include a public hearing noticed at least 15 days in advance by direct mail to the requesting regional planning commission or municipal legislative body, posting on the website of the entity from which the certification is requested, and publication in a newspaper of general publication in the region or municipality affected. The Commissioner or regional planning commission shall grant or deny certification within two months of the receipt of a request for certification. If certification is denied, the Commissioner or regional planning commission shall state the reasons for denial in writing and, if appropriate, suggest acceptable modifications. Submissions for certification that follow a denial shall receive a grant or denial of certification within 45 days.

Sec. 8. 24 V.S.A. § 4382 is amended to read:

§ 4382. THE PLAN FOR A MUNICIPALITY

(a) A plan for a municipality ~~may~~ shall be consistent with the goals established in section 4302 of this title and compatible with approved plans of other municipalities in the region and with the regional plan and shall include the following:

(1) A statement of objectives, policies, and programs of the municipality to guide the future growth and development of land, public services, and facilities, and to protect the environment.

(2) A land use plan:

(A) consisting of a map and statement of present and prospective land uses, indicating those areas proposed for forests, recreation, agriculture (using the agricultural lands identification process established in 6 V.S.A. § 8), residence, commerce, industry, public, and semi-public uses and open spaces reserved for flood plain, wetland protection, or other conservation purposes;

(B) setting forth the present and prospective location, amount, intensity, and character of such land uses and the appropriate timing or sequence of land development activities in relation to the provision of necessary community facilities and service; and

(C) identifying those areas, if any, proposed for designation under chapter 76A of this title, together with, for each area proposed for designation, an explanation of how the designation would further the plan's goals and the goals of section 4302 of this title, and how the area meets the requirements for the type of designation to be sought.

(3) A transportation plan, consisting of a map and statement of present and prospective transportation and circulation facilities showing existing and proposed highways and streets by type and character of improvement, and where pertinent, parking facilities, transit routes, terminals, bicycle paths and trails, scenic roads, airports, railroads, and port facilities, and other similar facilities or uses, with indications of priority of need.

(4) A utility and facility plan, consisting of a map and statement of present and prospective community facilities and public utilities showing existing and proposed educational, recreational and other public sites, buildings and facilities, including hospitals, libraries, power generating plants and transmission lines, water supply, sewage disposal, refuse disposal, storm drainage, and other similar facilities and activities, and recommendations to meet future needs for community facilities and services, with indications of priority of need, costs and method of financing.

(5) A statement of policies on the preservation of rare and irreplaceable natural areas~~,~~ and scenic and historic features and resources.

* * *

(9) An energy plan, including ~~an~~ a comprehensive analysis of energy resources, needs, scarcities, costs, and problems within the municipality~~,~~ across all energy sectors, including electric, thermal, and transportation; a statement of policy on the conservation and efficient use of energy, including programs, such as thermal integrity standards for buildings, to implement that policy~~,~~; a statement of policy on the development and siting of distributed and utility-scale renewable energy resources~~,~~; a statement of policy on patterns and densities of land use likely to result in conservation of energy and a statement

of policy on and identification of potential areas for the development and siting of renewable energy resources and areas that are inappropriate for siting those resources or particular categories or sizes of those resources.

* * *

Sec. 9. 30 V.S.A. § 202 is amended to read:

§ 202. ELECTRICAL ENERGY PLANNING

(a) The Department of Public Service, through the Director for Regulated Utility Planning, shall constitute the responsible utility planning agency of the State for the purpose of obtaining for all consumers in the State proper utility service at minimum cost under efficient and economical management consistent with other public policy of the State. The Director shall be responsible for the provision of plans for meeting emerging trends related to electrical energy demand, supply, safety, and conservation.

(b) The Department, through the Director, shall prepare an electrical energy plan for the State. The Plan shall be for a 20-year period and shall serve as a basis for State electrical energy policy. The Electric Energy Plan shall be based on the principles of "least cost integrated planning" set out in and developed under section 218c of this title. The Plan shall include at a minimum:

(1) an overview, looking 20 years ahead, of statewide growth and development as they relate to future requirements for electrical energy, including patterns of urban expansion, statewide and service area economic growth, shifts in transportation modes, modifications in housing types, and design, conservation, and other trends and factors which, as determined by the Director, will significantly affect State electrical energy policy and programs;

(2) an assessment of all energy resources available to the State for electrical generation or to supply electrical power, including, among others, fossil fuels, nuclear, hydro-electric, biomass, wind, fuel cells, and solar energy and strategies for minimizing the economic and environmental costs of energy supply, including the production of pollutants, by means of efficiency and emission improvements, fuel shifting, and other appropriate means;

(3) estimates of the projected level of electrical energy demand;

(4) a detailed exposition, including capital requirements and the estimated cost to consumers, of how such demand shall be met based on the assumptions made in subdivision (1) of this subsection and the policies set out in subsection (c) of this section; ~~and~~

(5) specific strategies for reducing electric rates to the greatest extent possible in Vermont over the most immediate six-year period, for the next

succeeding six-year period, and long-term sustainable strategies for achieving and maintaining the lowest possible electric rates over the full 20-year planning horizon consistent with the goal of maintaining a financially stable electric utility industry in Vermont; and

(6) the following for use as guidance to municipal and regional planning commissions in preparing municipal and regional plans under 24 V.S.A. chapter 117 that are consistent with the statutes listed in 24 V.S.A. § 4302(c)(7) and with the Plan and in obtaining a certification of energy compliance under that chapter:

(A) specific recommendations on the conservation and efficient use of electric energy and the development and siting of renewable electric generation, developed in accordance with 24 V.S.A. § 4302(c)(7); and

(B) based on 24 V.S.A. § 4302(c)(7) and the recommendations developed under subdivision (A) of this subdivision (6), a list of standards for use in determining whether municipal and regional plans should receive a certificate of energy compliance under 24 V.S.A. § 4352.

(c) In developing the Plan, the Department shall take into account the protection of public health and safety; preservation of environmental quality; the goals of 24 V.S.A. § 4302; the potential for reduction of rates paid by all retail electricity customers; the potential for reduction of electrical demand through conservation, including alternative utility rate structures; use of load management technologies; efficiency of electrical usage; utilization of waste heat from generation; and utility assistance to consumers in energy conservation.

(d) In establishing plans, the Director shall:

(1) Consult with:

(A) the public;

(B) Vermont municipal utilities and planning commissions;

(C) Vermont cooperative utilities;

(D) Vermont investor-owned utilities;

(E) Vermont electric transmission companies;

(F) environmental and residential consumer advocacy groups active in electricity issues;

(G) industrial customer representatives;

(H) commercial customer representatives;

(I) the Public Service Board;

(J) an entity designated to meet the public's need for energy efficiency services under subdivision 218c(a)(2) of this title;

(K) other interested State agencies; ~~and~~

(L) other energy providers; and

(M) the regional planning commissions.

* * *

(h) The Plans adopted under this section shall become the electrical energy portion of the State Energy Plan.

* * *

Sec. 10. 30 V.S.A. § 202b is amended to read:

§ 202b. STATE COMPREHENSIVE ENERGY PLAN

(a) The Department of Public Service, in conjunction with other State agencies designated by the Governor, shall prepare a State Comprehensive Energy Plan covering at least a 20-year period. The Plan shall seek to implement the State energy policy set forth in section 202a of this title and shall be consistent with the goals of 24 V.S.A. § 4302. The Plan shall include:

(1) a comprehensive analysis and projections regarding the use, cost, supply, and environmental effects of all forms of energy resources used within Vermont; ~~and~~

(2) recommendations for State implementation actions, regulation, legislation, and other public and private action to carry out the comprehensive energy plan; and

(3) the following for use as guidance to municipal and regional planning commissions in preparing municipal and regional plans under 24 V.S.A. chapter 117 that are consistent with the statutes listed in 24 V.S.A. § 4302(c)(7) and with the Plan and in obtaining a certification of energy compliance under that chapter:

(A) specific recommendations on the conservation and efficient use of energy and the development and siting of energy facilities, developed in accordance with 24 V.S.A. § 4302(c)(7); and

(B) based on 24 V.S.A. § 4302(c)(7) and the policies developed under subdivision (A) of this subdivision (3), a list of standards for use in determining whether municipal and regional plans should receive a certificate of energy compliance under 24 V.S.A. § 4352.

(b) In developing or updating the Plan's recommendations, the Department of Public Service shall seek public comment by holding public hearings in at

least five different geographic regions of the State on at least three different dates, and by providing notice through publication once a week and at least seven days apart for two or more successive weeks in a newspaper or newspapers of general circulation in the regions where the hearings will be held, and by delivering notices to all licensed commercial radio and television stations with transmitting facilities within the State, plus Vermont Public Radio and Vermont Educational Television.

(c) The Department shall adopt a State Energy Plan on or before January 1, 2016 and shall readopt the Plan by every sixth January 1 thereafter. On adoption or readoption, the Plan shall be submitted to the General Assembly. The provisions of 2 V.S.A. § 20(d)(expiration of required reports) shall not apply to such submission.

(1) Upon adoption of the Plan, analytical portions of the Plan may be updated and published biennially.

(2) Every fourth year after the adoption or readoption of a Plan under this section, the Department shall publish the manner in which the Department will engage the public in the process of readopting the Plan under this section.

(3) The publication requirements of subdivisions (1) and (2) of this subsection may be met by inclusion of the subject matter in the Department's biennial report.

(4) The Plan's implementation recommendations shall be updated by the Department no less frequently than every six years. These recommendations shall be updated prior to the expiration of six years if the General Assembly passes a joint resolution making a request to that effect. If the Department proposes or the General Assembly requests the revision of implementation recommendations, the Department shall hold public hearings on the proposed revisions.

(d) Distribution of the Plan to members of the General Assembly shall be in accordance with the provisions of 2 V.S.A. § 20(a)-(c).

Sec. 11. INITIAL IMPLEMENTATION; CERTIFICATION STANDARDS

(a) On or before October 1, 2016, the Department of Public Service shall publish specific recommendations and standards in accordance with 30 V.S.A. §§ 202(b)(6) and 202b(a)(3) as enacted by Secs. 8 and 10 of this act. Prior to issuing these recommendations and standards, the Department shall post on its website a draft set of initial recommendations and standards and provide notice and an opportunity to comment and request a public hearing to all persons listed in 30 V.S.A. § 202(d)(1). The Commissioner may elect to hold one or more public hearings on the Commissioner's own initiative.

(b) On publication under subsection (a) of this section, the specific recommendations and standards shall be considered an appendix to the currently adopted plans under 30 V.S.A. §§ 202 and 202b. After this publication, the Department may revise these policies and procedures in accordance with the procedures for adopting and revising plans under those statutes.

Sec. 12. 30 V.S.A. § 248(b) is amended to read:

(b) Before the Public Service Board issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1) With respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However:

(A) ~~with~~ With respect to a natural gas transmission line subject to Board review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the Board shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located~~; and~~.

(B) ~~with~~ With respect to a ground-mounted solar electric generation facility, the facility shall comply with the screening requirements of a municipal bylaw adopted under 24 V.S.A. § 4414(15) or a municipal ordinance adopted under 24 V.S.A. § 2291(28), and the recommendation of a municipality applying such a bylaw or ordinance, unless the Board finds that requiring such compliance would prohibit or have the effect of prohibiting the installation of such a facility or have the effect of interfering with the facility's intended functional use.

(C) With respect to an in-state electric generation facility, the Board shall give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan that has received a certificate of energy compliance under 24 V.S.A. § 4352. In this subdivision (C), "substantial deference" means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy.

* * *

* * * Regulatory and Financial Incentives; Preferred Locations * * *

Sec. 13. 30 V.S.A. § 8002(30) is added to read:

(30) "Preferred location" means a site within the State on which a renewable energy plant will be located that is one of the following:

(A) A new or existing structure, including a commercial or residential building, a parking lot, or parking lot canopy, whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity.

(B) A tract previously developed for a use other than siting a plant on which a structure or impervious surface was lawfully in existence and use prior to January 1 of the year in which an application for a certificate of public good under section 248 of this title for the plant is filed or in which the plant seeks an award of a contract under the standard offer program under section 8005a of this title, whichever is earlier. To qualify under this subdivision (B), the limits of disturbance of a proposed renewable energy plant must include either the existing structure or impervious surface and shall not include any headwaters, streams, shorelines, floodways, rare and irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive forestlands, and primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151.

(C) Land certified by the Secretary of Natural Resources to be a brownfield site as defined under 10 V.S.A. § 6642.

(D) A sanitary landfill as defined in 10 V.S.A. § 6602, provided that the Secretary of Natural Resources certifies that the land constitutes such a landfill and is suitable for the development of the plant.

(E) The disturbed portion of a gravel pit, quarry, or similar site for the extraction of a mineral resource, provided that all activities pertaining to site reclamation required by applicable law or permit condition are satisfied prior to the installation of the plant.

(F) A specific location designated in a duly adopted municipal plan under 24 V.S.A. chapter 117 for the siting of a renewable energy plant or specific type or size of renewable energy plant, provided that the plant meets any siting criteria recommended in the plan for the location. On or after January 1, 2019, to qualify under this subdivision (F), the plan must be certified under 24 V.S.A. § 4352.

(G) If the plant constitutes a net metering system, then in addition to subdivisions (A) through (F) of this subdivision (30), a site designated by Board rule as a preferred location.

Sec. 14. 30 V.S.A. § 8004(g) is added to read:

(g) Preferred locations. With respect to a renewable energy plant to be located in the State whose energy or environmental attributes may be used to satisfy the requirements of the RES, the Board shall exercise its authority under this section and sections 8005 and 8006 of this title to promote siting such a plant in a preferred location.

Sec. 15. 30 V.S.A. § 8005a is amended to read:

§ 8005a. STANDARD OFFER PROGRAM

(a) Establishment. A standard offer program is established. To achieve the goals of section 8001 of this title, the Board shall issue standard offers for renewable energy plants that meet the eligibility requirements of this section. The Board shall implement these standard offers by rule, order, or contract and shall appoint a Standard Offer Facilitator to assist in this implementation. For the purpose of this section, the Board and the Standard Offer Facilitator constitute instrumentalities of the State.

(b) Eligibility. To be eligible for a standard offer under this section, a plant must constitute a qualifying small power production facility under 16 U.S.C. § 796(17)(C) and 18 C.F.R. part 292, must not be a net metering system under section 219a of this title, and must be a new standard offer plant. In this section, "new standard offer plant" means a renewable energy plant that is located in Vermont, that has a plant capacity of 2.2 MW or less, and that is commissioned on or after September 30, 2009.

(c) Cumulative capacity. In accordance with this subsection, the Board shall issue standard offers to new standard offer plants until a cumulative plant capacity amount of 127.5 MW is reached.

(1) Pace. Annually commencing April 1, 2013, the Board shall increase the cumulative plant capacity of the standard offer program (the annual increase) until the 127.5-MW cumulative plant capacity of this subsection is reached.

(A) Annual amounts. The amount of the annual increase shall be five MW for the three years commencing April 1, 2013, 7.5 MW for the three years commencing April 1, 2016, and 10 MW commencing April 1, 2019.

(B) Blocks. Each year, a portion of the annual increase shall be reserved for new standard offer plants proposed by Vermont retail electricity providers (the provider block), and the remainder shall be reserved for new standard offer plants proposed by persons who are not providers (the independent developer block).

(i) The portion of the annual increase reserved for the provider block shall be 10 percent for the three years commencing April 1, 2013, 15 percent for the three years commencing April 1, 2016, and 20 percent commencing April 1, 2019.

(ii) If the provider block for a given year is not fully subscribed, any unsubscribed capacity within that block shall be added to the annual increase for each following year until that capacity is subscribed and shall be made available to new standard offer plants proposed by persons who are not providers.

(iii) If the independent developer block for a given year is not fully subscribed, any unsubscribed capacity within that block shall be added to the annual increase for each following year until that capacity is subscribed and:

(I) shall be made available to new standard offer plants proposed by persons who are not providers; and

(II) may be made available to a provider following a written request and specific proposal submitted to and approved by the Board.

(C) Adjustment; greenhouse gas reduction credits. The Board shall adjust the annual increase to account for greenhouse gas reduction credits by multiplying the annual increase by one minus the ratio of the prior year's greenhouse gas reduction credits to that year's statewide retail electric sales.

(i) The amount of the prior year's greenhouse gas reduction credits shall be determined in accordance with subdivision 8006a(a) of this title.

(ii) The adjustment in the annual increase shall be applied proportionally to the independent developer block and the provider block.

(iii) Greenhouse gas reduction credits used to diminish a provider's obligation under section 8004 of this title may be used to adjust the annual increase under this subsection (c).

(D) Pilot project; preferred locations. For a period of three years commencing on January 1, 2017:

(i) The Board shall allocate the following portions of the annual increase to new standard offer plants that will be wholly located in one or more preferred locations other than parking lots or parking lot canopies:

(I) one-sixth of the annual increase, during the first year;

(II) one-quarter of the annual increase, during the second year; and

(III) one-third of the annual increase, during the third year.

(ii) The Board separately shall allocate the following portions of the annual increase to new standard offer plants that will be wholly located on parking lots or parking lot canopies:

(I) one-sixth of the annual increase, during the first year;

(II) one-quarter of the annual increase, during the second year; and

(III) one-third of the annual increase, during the third year.

(iii) To qualify for these allocations, the plant shall not require the construction of a new substation by the interconnecting retail electricity provider or by increasing the capacity of one or more of the provider's existing facilities.

(iv) These allocations shall apply proportionally to the independent developer block and provider block.

(v) If in a given year an allocation under this pilot project is not fully subscribed, the Board in the same year shall allocate the unsubscribed capacity to new standard offer plants outside the pilot project.

(2) Technology allocations. The Board shall allocate the 127.5-MW cumulative plant capacity of this subsection among different categories of renewable energy technologies. These categories shall include at least each of the following: methane derived from a landfill; solar power; wind power with a plant capacity of 100 kW or less; wind power with a plant capacity greater than 100 kW; hydroelectric power; and biomass power using a fuel other than methane derived from an agricultural operation or landfill.

* * *

(f) Price. The categories of renewable energy for which the Board shall set standard offer prices shall include at least each of the categories established pursuant to subdivision (c)(2) of this section. The Board by order shall determine and set the price paid to a plant owner for each kWh generated under a standard offer required by this section, with a goal of ensuring timely development at the lowest feasible cost. The Board shall not be required to make this determination as a contested case under 3 V.S.A. chapter 25.

(1) Market-based mechanisms. For new standard offer projects, the Board shall use a market-based mechanism, such as a reverse auction or other procurement tool, to obtain up to the authorized amount of a category of renewable energy, if it first finds that use of the mechanism is consistent with:

(A) applicable federal law; and

(B) the goal of timely development at the lowest feasible cost.

(2) Avoided cost.

(A) The price paid for each category of renewable energy shall be the avoided cost of the Vermont composite electric utility system if the Board finds either of the following:

(i) Use of the pricing mechanism described in subdivision (1)(market-based mechanisms) of this subsection (f) is inconsistent with applicable federal law.

(ii) Use of the pricing mechanism described in subdivision (1)(market-based mechanisms) of this subsection (f) is reasonably likely to result in prices higher than the prices that would apply under this subdivision (2).

(B) ~~For the purpose of~~ As used in this subsection (f), the term "avoided cost" means the incremental cost to retail electricity providers of electric energy or capacity or both, which, but for the purchase through the standard offer, such providers would obtain from distributed renewable generation that uses the same generation technology as the category of renewable energy for which the Board is setting the price. ~~For the purpose of~~ As used in this subsection (f), the term "avoided cost" also includes the Board's consideration of each of the following:

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

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

(iii) The availability, during the system's daily and seasonal peak periods, of capacity or energy purchased through the standard offer, and the estimated savings from mitigating peak load.

(iv) The relationship of the availability of energy or capacity purchased through the standard offer to the ability of the Vermont composite electric utility system or a portion thereof to avoid costs.

(v) The costs or savings resulting from variations in line losses and other impacts to the transmission or distribution system from those that would have existed in the absence of purchases through the standard offer.

(vi) The supply and cost characteristics of plants eligible to receive the standard offer.

* * *

(5) Price; preferred location pilots. For the period during which the Board allocates capacity to new standard offer plants that will be wholly located in one or more preferred locations as set forth in subdivision (c)(1)(D) of this section, the following shall apply to the price paid to such a plant:

(A) In using a market-based mechanism such as a reverse auction to determine this price for each of the two allocations of capacity, the Board shall compare only the proposals of plants that qualify for the allocation.

(B) In using avoided costs to determine this price for each of the two allocations of capacity, the Board shall derive the incremental cost from distributed renewable generation that is sited on a location that qualifies for the allocation and uses the same generation technology as the category of renewable energy for which the Board is setting the price.

Sec. 16. STANDARD OFFER PILOT; REPORT

On or before January 15, 2018, the Public Service Board shall file a report with the House Committee on Commerce and Economic Development, the Senate Committee on Finance, and the House and Senate Committees on Natural Resources and Energy on the progress of the standard offer pilot project on preferred locations authorized in Sec. 15 of this act. This report shall itemize the size, type of preferred location, generation technology, and cost per kilowatt hour of each application received under the pilot project and shall identify each generation facility approved under the pilot and the bill credit per kilowatt hour awarded to each such facility.

Sec. 17. 30 V.S.A. § 8010 is amended to read:

§ 8010. SELF-GENERATION AND NET METERING

* * *

(c) In accordance with this section, the Board shall adopt and implement rules that govern the installation and operation of net metering systems.

(1) The rules shall establish and maintain a net metering program that:

* * *

(G) accounts for changes over time in the cost of technology; ~~and~~

(H) allows a customer to retain ownership of the environmental attributes of energy generated by the customer's net metering system and of any associated tradeable renewable energy credits or to transfer those attributes and credits to the interconnecting retail provider, and:

(i) if the customer retains the attributes, reduces the value of the credit provided under this section for electricity generated by the customer's net metering system by an appropriate amount; and

(ii) if the customer transfers the attributes to the interconnecting provider, requires the provider to retain them for application toward compliance with sections 8004 and 8005 of this title; and

(I) promotes the siting of net metering systems in preferred locations.

* * *

(3) The rules shall establish standards and procedures governing application for and issuance or revocation of a certificate of public good for net metering systems under the provisions of section 248 of this title. In establishing these standards and procedures~~, the rules~~:

(A) The rules may waive the requirements of section 248 of this title that are not applicable to net metering systems, including criteria that are generally applicable to public service companies as defined in this title~~;~~.

(B) The rules may modify notice and hearing requirements of this title as the Board considers appropriate~~;~~.

(C) The rules shall seek to simplify the application and review process as appropriate~~; and~~.

(D) ~~with~~ With respect to net metering systems that exceed 150 kW in plant capacity, shall apply the so-called "Quechee" test for aesthetic impact as described by the Vermont Supreme Court in the case of In re Halnon, 174 Vt. 515 (2002) (mem.). The rules and application form shall state the components of this test.

(E) With respect to a net metering system exceeding 15 kW in plant capacity, the rules shall not waive or include provisions that are less stringent than the following, notwithstanding any contrary provision of law:

(i) the requirement of subdivision 248(a)(4)(C) of this title to provide a copy of the application to the Agencies of Agriculture, Food and Markets and of Natural Resources; the Department of Public Service; the Division for Historic Preservation; the municipal legislative body; and the municipality and regional planning commissions; and

(ii) the requirements of subdivision 248(a)(4)(J) (required information) and subsections 248(f) (preapplication submittal) and (t) (aesthetic mitigation) and, with respect to a net metering system exceeding 150 kW in plant capacity, of subsection (u) (decommissioning) of this title.

* * *

* * * Regulatory Process; Public Assistance Officer * * *

Sec. 18. 30 V.S.A. § 3 is amended to read:

§ 3. PUBLIC SERVICE BOARD

(a) The ~~public service board~~ Public Service Board shall consist of a ~~chairperson~~ chair and two members. The ~~chairperson~~ Chair and each member shall not be required to be admitted to the practice of law in this ~~state~~ State.

* * *

(g) The ~~chairperson~~ Chair shall have general charge of the offices and employees of the ~~board~~ Board.

(h) The Board shall employ a Public Assistance Officer (PAO) in accordance with this subsection.

(1) The PAO shall provide guidance to and answer questions from parties and members of the public on all matters under this title concerning the siting and construction of facilities in the State that generate or transmit electricity, constitute a meteorological station as defined in section 246 of this title, or constitute a natural gas facility as defined in subdivision 248(a)(3) of this title. As used in this section:

(A) "Contested case" has the same meaning as in 3 V.S.A. § 801.

(B) "Matter" means any proceeding before or by the Board, including an application for a certificate of public good, a petition for condemnation, rulemaking, and the issuance of guidance or procedures.

(2) Guidance and information to be provided by the PAO shall include the following:

(A) An explanation of the proceeding, including its purpose; its type, such as rulemaking or contested case; and the restrictions or lack of restrictions applicable to the type of proceeding, such as whether ex parte communications are prohibited.

(B) Answers to procedural questions and direction to the statutes and rules applicable to the proceeding.

(C) How to participate in the proceeding including, if necessary for participation, how to file to a motion to intervene and how to submit prefiled testimony. The Board shall create forms and templates for motions to intervene, prefiled testimony, and other types of documents commonly filed with the Board, which the PAO shall provide to a person on request. The Board shall post these forms and templates on the Board's website.

(D) The responsibilities of intervenors and other parties.

(E) The status of the proceeding. Examples of a proceeding's status include: a petition has been filed; the proceeding awaits scheduling a prehearing conference or hearing; parties are conducting discovery or submitting prefiled testimony; hearings are concluded and parties are preparing briefs; and the proceeding is under submission to the Board and awaits a decision. For each proceeding in which the next action constitutes the issuance of an order, decision, or proposal for decision by the Board or a hearing officer, the Chair or assigned hearing officer shall provide the PAO with an expected date of issuance and the PAO shall provide this expected date to requesting parties or members of the public.

(3) For each proceeding within the scope of subdivision (1) of this subsection, the Board shall post, on its website, electronic copies of all filings and submissions to the Board and all orders of the Board.

(4) The Board shall adopt rules or procedures to ensure that the communications of the PAO with the Board's members and other employees concerning contested cases do not contravene the requirements of the Administrative Procedure Act applicable to such cases.

(5) The PAO shall have a duty to provide requesting parties and members of the public with information that is accurate to the best of the PAO's ability. The Board and its other employees shall have a duty to transmit accurate information to the PAO. However, the Board and any assigned hearing officer shall not be bound by statements of the PAO.

(6) The PAO shall not be an advocate for any person and shall not have a duty to assist a person in the actual formation of the person's position or arguments before the Board or the actions necessary to advance the person's position or arguments such as the actual preparation of motions, memoranda, or prefiled testimony.

(7) The Board may assign secondary duties to the PAO that do not conflict with the PAO's execution of his or her duties under this subsection.

Sec. 19. POSITION; APPROPRIATION

The following classified position is created in the Public Service Board—one permanent, full-time Public Assistance Officer—for the purpose of Sec. 2 of this act. There is appropriated to the Public Service Board for fiscal year 2017 from the special fund described in 30 V.S.A. § 22 the amount of $100,000.00 for the purpose of this position.

Sec. 20. 30 V.S.A. § 248(a)(4) is amended to read:

(4)(A) With respect to a facility located in the State, the Public Service Board shall hold a nontechnical public hearing on each petition for such

finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located.

(B) The Public Service Board shall hold technical hearings at locations which it selects.

(C) At the time of filing its application with the Board, copies shall be given by the petitioner to the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health, Agency of Natural Resources, Historic Preservation Division, Agency of Transportation, Agency of Agriculture, Food and Markets, and to the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

(D) Notice of the public hearing shall be published and maintained on the Board's website for at least 12 days before the day appointed for the hearing. Notice of the public hearing shall be published once in a newspaper of general circulation in the county or counties in which the proposed facility will be located, and the notice shall include an Internet address where more information regarding the proposed facility may be viewed.

(E) The Agency of Natural Resources shall appear as a party in any proceedings held under this subsection, shall provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section, and may provide evidence and recommendations concerning any other matters to be determined by the Board in such a proceeding.

(F) The Agency of Agriculture, Food and Markets shall have the right to appear as a party in any proceedings held under this subsection.

(G) The regional planning commission for the region in which the facility is located shall have the right to appear as a party in any proceedings held under this subsection. The regional planning commission of an adjacent region shall have the same right if the facility is located within 500 feet of the boundary of that planning commission.

(H) The legislative body and the planning commission for the municipality in which a facility is located shall have the right to appear as a party in any proceedings held under this subsection. The legislative body and planning commission of an adjacent municipality shall have the same right if the facility is located within 500 feet of the boundary of that adjacent municipality.

(I) When a person has the right to appear and participate in a proceeding before the Board under this chapter, the person may activate this right by filing a letter with the Board stating that the person appears through the person's duly authorized representative, signed by that representative.

(J) With respect to an application for an electric generation facility with a capacity that is greater than 15 kilowatts, and in addition to any other information required by the Board, the application shall include information that delineates:

(i) the full limits of physical disturbance due to the construction and operation of the facility and related infrastructure, including areas disturbed due to the creation or modification of access roads and utility lines and the clearing or management of vegetation;

(ii) the presence and total acreage of primary agricultural soils as defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in connection with the construction and operation of the facility and the amount of those soils to be disturbed;

(iii) all visible infrastructure associated with the facility; and

(iv) all impacts of the facility's construction and operation under subdivision (b)(5) of this section, including impacts due to the creation or modification of access roads and utility lines and the clearing or management of vegetation.

Sec. 21. 30 V.S.A. § 248(f) is amended to read:

(f) However, plans for the construction of such a facility within the State must be submitted by the petitioner to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement.

(1) Such municipal or regional planning commission may hold a public hearing on the proposed plans. Such commissions shall make recommendations, if any, to the Public Service Board and to the petitioner at least seven days prior to filing of the petition with the Public Service Board.

(2) The petitioner's application shall address the substantive written comments related to the criteria of subsection (b) of this section received by the petitioner within 45 days of the submittal made under this subsection and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

* * * CPG Conditions: Aesthetics Mitigation and Decommissioning * * *

Sec. 22. 30 V.S.A. § 248(t) and (u) are added to read:

(t) A certificate under this section for an in-state facility shall require the following with respect to all measures to be undertaken to mitigate the impacts of the facility on aesthetics and scenic beauty:

(1) The certificate holder shall obtain a certification from a qualified expert that all required mitigation measures have been undertaken and all required plantings have been installed.

(2) The certificate holder shall have control over all vegetation used to demonstrate that the facility will not have an undue adverse effect on aesthetics and all locations on which mitigation plantings are required to be installed. As used in this subdivision, "control" means that the certificate holder has an enforceable right to install and maintain plantings and to manage vegetation.

(3) For three years after installation of all required plantings, the certificate holder annually shall submit documentation by a qualified expert that the plantings have been maintained in accordance with the approved plans.

(4) The certificate holder shall have an ongoing duty to maintain the plantings in accordance with the approved plans and replace dead or diseased plantings as soon as seasonably possible.

(5) The Board shall approve each qualified expert employed to issue a certification under this subsection. However, a qualified expert retained by the Department of Public Service shall be the one to make the certification if the Department has retained such an expert during the course of the proceeding leading to issuance of the certificate.

(u) A certificate under this section for an in-state electric generation facility with a capacity that is greater than 150 kilowatts shall require the decommissioning or dismantling of the facility and ancillary improvements at the end of the facility's useful life and the posting of a bond or other security acceptable to the Board that is sufficient to finance the decommissioning or dismantling activities in full.

* * * Greenhouse Gases; Life Cycle Analysis * * *

Sec. 23. 30 V.S.A. § 248(v) is added to read:

(v) A petition under this section for an in-state facility that is not a net metering system as defined in this title shall include a life cycle analysis of the greenhouse gas impacts of the facility that the Board shall consider in issuing findings under subdivisions (b)(2) and (5) of this section. In this subsection, "facility" includes all generating equipment, poles, wires, substations,

structures, roads, and infrastructure, and all other associated land development. This analysis shall include:

(1) emissions embodied in all facility components;

(2) emissions associated with the transportation of all such components to the site or sites at which they will be installed;

(3) emissions associated with site preparation, including the clearing of forested areas and reductions in future carbon sequestration potential from the facility site or sites;

(4) emissions associated with the construction of all facility components;

(5) emissions associated with the operation of the facility;

(6) emissions associated with the decommissioning of the facility; and

(7) for facilities that employ renewable energy as defined under section 8002 of this title, the reduction in greenhouse gas emissions achieved by the facility as compared to alternative generation facilities that do not employ renewable energy.

* * * Sound Standards Docket; Energy Facilities * * *

Sec. 24. SOUND STANDARDS DOCKET; COMPLETION DATE

On or before September 1, 2016, the Public Service Board shall issue a final order in its pending Docket 8167, Investigation into the potential establishment of standards related to sound levels from the operation of generation, transmission, and distribution equipment by entities subject to Public Service Board jurisdiction.

* * * Agency of Agriculture, Food and Markets; Fees; Billback * * *

Sec. 25. 30 V.S.A. § 248c is added to read:

§ 248c. FEES; AGENCY OF AGRICULTURE, FOOD AND MARKETS; PARTICIPATION IN ENERGY SITING PROCEEDINGS

(a) Establishment. This section establishes fees for the purpose of supporting the role of the Agency of Agriculture, Food and Markets (the Agency) in reviewing applications for in-state facilities under section 248 of this title. These fees are in addition to the fees under section 248b of this title.

(b) Payment. The applicant shall pay the fee into the State Treasury at the time the application for a certificate of public good under section 248 of this title is filed with the Public Service Board in an amount determined in accordance with this section. The fee shall be credited to a special fund that shall be established and managed pursuant to 32 V.S.A. chapter 7,

subchapter 5, and which shall be available to the Agency to offset the cost of participation in proceedings under section 248 of this title.

(c) Application. The fee established under this section shall apply only if any generation equipment, utility lines, roads, or other improvements associated with an in-state facility seeking a certificate of public good under section 248 of this title will be located on a tract of land that contains primary agricultural soils as defined in 10 V.S.A. § 6001.

(c) Amount. The fee shall be 10 percent of the amount calculated in accordance with subsection 248b(d) of this title.

* * * Allocation of AAFM Costs * * *

Sec. 26. 30 V.S.A. §§ 20 and 21 are amended to read:

§ 20. PARTICULAR PROCEEDINGS; PERSONNEL

(a)(1) The Board or Department may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, and other research services:

* * *

(2) The Agency of Natural Resources may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, other research, scientific, or engineering services to:

(A) Assist the Agency of Natural Resources in any proceeding under section 248 of this title.

(B) Monitor compliance with an order issued under section 248 of this title.

(C) Assist the Board or Department in any proceedings described in subdivisions (b)(9) (Federal Energy Regulatory Commission) and (11) (Nuclear Regulatory Commission) of this section. Allocation of Agency of Natural Resources costs under this subdivision (C) shall be in the same manner as provided under subdivisions (b)(9) and (11) of this section. The Agency of Natural Resources shall report annually to the Joint Fiscal Committee all costs incurred and expenditures charged under the authority of this subsection with respect to proceedings under subdivision (b)(9) of this section and the purpose for which such costs were incurred and expenditures made.

(3) The Agency of Agriculture, Food and Markets may authorize or retain legal counsel, official stenographers, expert witnesses, advisors, temporary employees, other research, scientific, or engineering services to:

(A) assist the Agency of Agriculture, Food and Markets in any proceeding under section 248 of this title; or

(B) monitor compliance with an order issued under section 248 of this title.

(4) The personnel authorized by this section shall be in addition to the regular personnel of the Board or Department or other State agencies; and in the case of the Department or other State agencies may be retained only with the approval of the Governor and after notice to the applicant or the public service company or companies. The Board or Department shall fix the amount of compensation and expenses to be paid such additional personnel, except that the Agency of Natural Resources or of Agriculture, Food and Markets, respectively, shall fix the amount of compensation and expenses to be paid to additional personnel that it retains under subdivision (2) of this subsection.

* * *

§ 21. PARTICULAR PROCEEDINGS; ASSESSMENT OF COSTS

(a) ~~The Board, the Department, or the Agency of Natural Resources~~ An agency may allocate the portion of the expense incurred or authorized by it in retaining additional personnel ~~for the particular proceedings authorized in~~ pursuant to section 20 of this title to the applicant or the public service company or companies involved ~~in those proceedings~~. As used in this section, "agency" means an agency, board, or department of the State enabled to authorize or retain personnel under section 20 of this title.

(1) The Board shall upon petition of an applicant or public service company to which costs are proposed to be allocated, review and determine, after opportunity for hearing, having due regard for the size and complexity of the project, the necessity and reasonableness of such costs, and may amend or revise such allocations. Nothing in this section shall confer authority on the Board to select or decide the personnel, the expenses of whom are being allocated, unless such personnel are retained by the Board. Prior to allocating costs, the Board shall make a determination of the purpose and use of the funds to be raised hereunder, identify the recipient of the funds, provide for allocation of costs among companies to be assessed, indicate an estimated duration of the proceedings, and estimate the total costs to be imposed. With the approval of the Board, such estimates may be revised as necessary. From time to time during the progress of the work of such additional personnel, the ~~Board, the Department, or the Agency of Natural Resources~~ agency retaining the personnel shall render to the company detailed statements showing the amount of money expended or contracted for in the work of such personnel, which statements shall be paid by the applicant or the public service company into the State Treasury at such time and in such manner as the ~~Board, the Department, or the Agency of Natural Resources~~ agency may reasonably direct.

(2) In any proceeding under section 248 of this title, the Agency of Natural Resources may allocate the portion of the expense incurred in retaining additional staff authorized in subsection 21(a) of this title only if the following apply:

(A) the Agency does not have the expertise and the retention of such expertise is required to fulfill the Agency's statutory obligations in the proceeding; and

(B) the Agency allocates only that portion of the cost for such expertise that exceeds the fee paid by the applicant under section 248b of this title.

(b) When regular employees of ~~the Board, the Department, or the Agency of Natural Resources~~ an agency are employed in the particular proceedings described in section 20 of this title, the ~~Board, the Department, or the Agency of Natural Resources~~ agency may also allocate the portion of their costs and expenses to the applicant or the public service company or companies involved in the proceedings. The costs of regular employees shall be computed on the basis of working days within the salary period. The manner of assessment and of making payments shall otherwise be as provided for additional personnel in subsection (a) of this section. However, with respect to proceedings under section 248 of this title, the Agency of Natural Resources shall not allocate the costs of regular employees.

* * *

(d) The Agency of Natural Resources may allocate expenses under this section only for costs in excess of the amount specified in 3 V.S.A. § 2809(d)(1)(A).

(e) ~~On~~ Annually on or before January 15~~, 2011, and annually thereafter,~~ the Agency of Natural Resources and of Agriculture, Food and Markets each shall report to the Senate and House Committees on Natural Resources and Energy, the Senate Committee on Agriculture, and the House Committee on Agriculture and Forests Products the total amount of expenses allocated under this section during the previous fiscal year. The report shall include the name of each applicant or public service company to whom expenses were allocated and the amount allocated to each applicant or company.

* * *

* * * Effective Dates * * *

Sec. 27. EFFECTIVE DATES

This act shall take effect on July 1, 2016, except that:

(1) This section and Sec. 11 (initial implementation; certification standards) shall take effect on passage. The following in Secs. 2, 9, and 10 shall apply on passage to the activities of the Department of Public Service under Sec. 11: 24 V.S.A. § 4302(c) and 30 V.S.A. §§ 202(b)(6) and 202b(a)(3).

(2) Sec. 17 (net metering systems) shall take effect on January 2, 2017, and shall amend 30 V.S.A. § 8010 as amended by 2015 Acts and Resolves No. 56, Sec. 12.

And that when so amended the bill ought to pass.

Senator Ashe, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Natural Resources and Energy with the following amendments thereto:

First: In Sec. 4, 24 V.S.A. § 4345a, by striking out subdivision (14) in its entirety and inserting in lieu thereof a new subdivision (14) to read as follows:

(14) With respect to proceedings under 30 V.S.A. § 248:

(A) have the right to appear and participate; and

(B) ~~Appear~~ appear before the Public Service Board to aid ~~the Board~~ in making determinations under ~~30 V.S.A. § 248~~ that statute when requested by the Board.

Second: By striking out Sec. 5 (clarification of existing law) in its entirety and inserting in lieu thereof a new Sec. 5 to read as follows:

Sec. 5. [Deleted.]

Third: In Sec. 7, 24 V.S.A. § 4352, in subsection (b) (municipal plan certification), in the third sentence, by striking out the second occurrence of "regional" and inserting in lieu thereof the word municipal

Fourth: In Sec. 9, 30 V.S.A. § 202, after the last ellipsis, by inserting a subsection (j) to read as follows:

(j) For the purpose of assisting in the development of land use plans under 24 V.S.A. chapter 117, the Director shall, on request, provide municipal and regional planning commissions with publically available information detailing the location of electric transmission and distribution infrastructure in the relevant municipality or region and the capacity of that infrastructure to accept additional electric generation facilities without modification. In providing this information, the Director shall be entitled to the assistance of the electric utilities that own electric transmission or distribution systems, or both, located in Vermont, including the ability to obtain from those utilities such data as the

Director considers necessary to discharge his or her duties under this subsection.

Fifth: In Sec. 11, initial implementation; certification standards, in subsection (b), in the second sentence, after the word "these" by striking out the words "policies and procedures" and inserting in lieu thereof the words recommendations and standards

Sixth: After Sec. 11, by inserting a section to be numbered Sec. 11a to read as follows:

Sec. 11a. TRAINING

Following publication of the recommendations and standards under Sec. 11(a) of this act, the Department of Public Service shall conduct a series of training sessions in locations across the State for municipal and regional planning commissions to assist them in the development of land use plans that are eligible for certification under Sec. 7 of this act, 24 V.S.A. § 4352. The Department shall develop and present these workshops in collaboration with the Vermont League of Cities and Towns and the Vermont Association of Planning and Development Agencies. The Department shall ensure that all municipal and regional planning commissions receive prior notice of the workshops.

Seventh: After Sec. 11a, by inserting a new section to be numbered Sec. 11b to read as follows:

Sec. 11b. PLANNING SUPPORT; ALLOCATION OF COSTS

(a) For three fiscal years commencing on July 1, 2016, the Commissioner of Public Service, in consultation with the Commissioner of Housing and Community Development, annually shall disburse an amount not to exceed $300,000.00 to regional planning commissions established under 24 V.S.A. chapter 117 and to municipalities for one or more of the following purposes:

(1) implementation of Secs. 2 (purpose; goals); 6 (elements of a regional plan), 7 (certification of energy compliance), and 8 (the plan for a municipality) of this act;

(2) the implementation by a regional planning commission of 24 V.S.A. § 4345a (studies and recommendations on energy);

(3) participation in the development of recommendations and standards pursuant to Secs. 9 (electrical energy plan), 10 (comprehensive energy plan), and 11 (initial implementation; certification standards) of this act; and

(4) assistance by a regional planning commission to the Department of Public Service (the Department) in providing training under Sec. 11a (training) of this act or to municipalities in the implementation of this act.

(b) In disbursing funds under this section, the Commissioners shall consider the need and size of a municipality or region and the availability, if any, of other assistance, expertise, or funds to a municipality or region to implement this act.

(c) The Commissioner of Public Service shall allocate costs under subsection (a) of this section to the electric distribution utilities subject to its supervision under Title 30 of the Vermont Statutes Annotated based on their pro rata share of total Vermont retail kilowatt-hour sales for the previous fiscal year. Each of these utilities shall pay its allocation into the State Treasury at such time and in such manner as the Commissioner may direct.

Eighth: In Sec. 12, 30 V.S.A. § 248(b), after the ellipsis, by inserting subdivision (5) to read as follows:

(5) With respect to an in-state facility, will not have an undue adverse effect on esthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(B), (9)(C), and (9)(K), impacts to forest health and integrity, and greenhouse gas impacts.

* * *

Ninth: By striking out Sec. 14 in its entirety and inserting in lieu thereof a new Sec. 14 to read as follows:

Sec. 14. [Deleted.]

Tenth: In Sec. 15, 30 V.S.A. § 8005a, in subsection (c) (cumulative capacity), in subdivision (1) (pace), in subparagraph (D) (pilot project; preferred locations), by striking out subdivision (iii) and inserting in lieu thereof a new subdivision (iii) to read as follows:

(iii) To qualify for these allocations, the plant shall not require the construction of a new substation by the interconnecting retail electricity provider or by increasing the capacity of one or more of the provider's existing facilities. To qualify for the allocation to plants wholly located on parking lots or parking lot canopies, the location shall remain in use as a parking lot.

Eleventh: In Sec. 15, 30 V.S.A. § 8005a, in subsection (f) (price), in subdivision (5) (price; preferred location pilots), after subparagraph (B), by inserting a new subparagraph (C) to read as follows:

(C) With respect to the allocation to the new standard offer plants that will be wholly located on parking lots or parking lot canopies, if in a given year the Board receives only one application or multiple applications for plants owned or controlled by the same person as defined in 10 V.S.A. § 6001, the

Board shall investigate each application and shall have discretion to reduce the price to be consistent with the standard offer price for plants outside the pilot project using the same generation technology.

Twelfth: In Sec. 20, 30 V.S.A. § 248(a)(4), by striking out subparagraph (F) in its entirety and inserting in lieu thereof a new subparagraph (F) to read:

(F) The following shall apply to the participation of the Agency of Agriculture, Food and Markets in proceedings held under this subsection:

(i) In any proceeding regarding an electric generation facility that will have a capacity greater than 150 kilowatts and will be sited on a tract containing primary agricultural soils as defined in 10 V.S.A. § 6001, the Agency shall appear as a party and provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section on those soils, and may provide evidence and recommendations concerning any other matters to be determined by the Board in such a proceeding.

(ii) In a proceeding other than one described in subdivision (i) of this subsection (4)(F), the Agency shall have the right to appear and participate.

Thirteenth: By striking out Sec. 22 in its entirety and inserting in lieu thereof two new Secs. to be Secs. 22 and 22a to read as follows:

Sec. 22. 30 V.S.A. § 248(t) is added to read:

(t) The Board shall adopt rules applicable to in-state facilities approved under this section.

(1) With respect to all measures required to be undertaken to mitigate the impacts of such a facility on aesthetics and scenic beauty, the rules shall:

(A) ensure that there is postconstruction inspection to determine whether all required mitigation measures have been undertaken and required plantings have been installed, including such inspection of facilities approved prior to the effective date of this subsection;

(B) ensure that the holder of a certificate for such a facility has an enforceable right to install and maintain all required plantings and manage all vegetation used to demonstrate the facility will not have an undue adverse effect on aesthetics;

(C) after installation of all required plantings, require annual submission for a period to be determined by the Board of documentation that the plantings have been maintained in accordance with the approved plans; and

(D) ensure that the holder of a certificate for such a facility has an ongoing duty to maintain the plantings in accordance with the approved plans and replace dead or diseased plantings as soon as seasonably possible.

(2) With respect to decommissioning of electric generation facilities, the rules:

(A) shall ensure that all such facilities with a plant capacity as defined in section 8002 of this title greater than 150 kilowatts are subject to a decommissioning plan approved by the Board;

(B) shall ensure that all such facilities above a plant capacity to be determined by the Board post a bond or offer other security or financial assurance acceptable to the Board that is sufficient to finance the decommissioning activities in full; and

(C) may allow net metering systems as defined in this title to pool or otherwise aggregate the provision of security or other financial assurance to finance those decommissioning activities.

Sec. 22a. RULES; PETITION

(a) On or before August 1, 2016, the Department of Public Service shall file a petition for rulemaking with the Public Service Board containing proposed rules to implement Sec. 22 of this act, 30 V.S.A. § 248(t).

(b) On or before October 15, 2016, the Public Service Board shall file proposed rules to implement Sec. 22 of this act with the Secretary of State under 3 V.S.A. § 838. The Board shall finally adopt such rules on or before June 15, 2017, unless such deadline is extended by the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 843(c).

Fourteenth: In Sec. 23, in the catchline, by striking out the following: "248(v)" and inserting in lieu thereof the following: 248(u), and in subsection (v), by redesignating the subsection to be subsection (u).

Fifteenth: After Sec. 23, by inserting a new section to be Sec. 23a to read as follows:

Sec. 23a. 30 V.S.A. § 248(v) is added to read:

(v) Notwithstanding any contrary provision of the law, primary agricultural soils as defined in 10 V.S.A. § 6001 located on the site of a solar electric generation facility approved under this section shall remain classified as such soils, and the review of any change in use of the site subsequent to the construction of the facility shall treat the soils as if the facility had never been constructed. Each certificate of public good issued by the Board for a ground-mounted solar generation facility shall state the contents of this subsection.

Sixteenth: After Sec. 23a, by inserting two new sections to be numbered Secs. 23b and 23c to read as follows:

Sec. 23b. 30 V.S.A. § 248(w) is added to read:

(w)(1) The Board shall require any in-state wind electric generation facility receiving a certificate of public good to install radar-controlled obstruction lights on all wind turbines for which the Federal Aviation Administration (FAA) requires obstruction lights, provided the FAA allows the use of radar-controlled lighting technology. Nothing in this subdivision shall allow the Board to approve obstruction lights that do not meet FAA standards.

(2) The purpose of this subsection is to reduce the visual impact of wind turbine obstruction lights on the environment and nearby properties. The General Assembly finds that wind turbine obstruction lights that remain illuminated through the night create light pollution, and may attract birds and bats. Radar-controlled obstruction lights are only illuminated when aircraft are detected in the area, and therefore the use of these lights will reduce the negative environmental impacts of obstruction lights.

Sec. 23c. EXISTING WIND FACILITIES; RADAR-CONTROLLED LIGHTING

The Department of Public Service shall actively encourage the installation of radar-controlled obstruction lights that meet the standards of the Federal Aviation Administration (FAA) at each wind generation facility in existence as of the effective date of this section for which the FAA requires obstruction lighting. The Department shall work directly with the owner and operator of each such facility to encourage this installation.

Seventeenth: After Sec. 23c, by inserting a new section Sec. 23d to read as follows:

Sec. 23d. 30 V.S.A. § 248(x) is added to read:

(x) When a certificate of public good under this section or amendment to such a certificate is issued for an in-state electric generation facility, the certificate holder within 45 days shall record a notice of the certificate or amended certificate, on a form prescribed by the Board, in the land records of each municipality in which a facility subject to the certificate is located and shall submit proof of this recording to the Board. The recording under this subsection shall be indexed as though the certificate holder were the grantor of a deed. The prescribed form shall not exceed one page and shall require identification of the land on which the facility is to be located by reference to the conveyance to the current landowner, the number of the certificate, and the name of each person to which the certificate was issued, and shall include

information on how to contact the Board to view the certificate and supporting documents.

Eighteenth: After Sec. 24, by striking out the reader guide preceding Sec. 25 (fees) and by striking out Sec. 25 (fees) in its entirety and by renumbering Sec. 26 to be Sec. 25

Nineteenth: After Sec. 25, by inserting a reader guide and a new section to be numbered Sec. 26 to read:

* * * Regulated Energy Utility Expansion Funds * * *

Sec. 26. 30 V.S.A. § 218d(d) is amended to read:

(d) Alternative regulation may include such changes or additions to, waivers of, or alternatives to, traditional rate-making procedures, standards, and mechanisms, including substantive changes to rate base-rate of return rate setting, as the ~~board~~ Board finds will promote the public good and will support the required findings in subsection (a) of this section. In addition, the Board shall not allow a company to set aside funds collected from ratepayers for the purpose of supporting a future expansion or upgrade of its transmission or distribution network except after notice and opportunity for hearing and only if all of the following apply:

(1) There is a cost estimate for the expansion or upgrade that the company demonstrates is consistent with the principles of least cost integrated planning as defined in section 218c of this title.

(2) The amount of such funds does not exceed 10 percent of the estimated cost of the expansion or upgrade.

(3) Interest earned on the funds is credited to the ratepayers.

(4) The funds are not disbursed to the company until after expansion or upgrade is in service.

(5) The funds are not used to defray any portion of the costs of expansion or upgrade in excess of the cost estimate described in subdivision (1) of this subsection.

Twentieth: After Sec. 26, by inserting a reader guide and a new section to be numbered Sec. 26a to read as follows:

* * * Municipal Electric Utilities; Hydro Facilities;
Renewable Energy Standard * * *

Sec. 26a. 30 V.S.A. § 8005(a)(1) is amended to read:

(1) Total renewable energy.

(A) Purpose; establishment. To encourage the economic and environmental benefits of renewable energy, this subdivision establishes, for the RES, minimum total amounts of renewable energy within the supply portfolio of each retail electricity provider. To satisfy this requirement, a provider may use renewable energy with environmental attributes attached or any class of tradeable renewable energy credits generated by any renewable energy plant whose energy is capable of delivery in New England.

(B) Required amounts. The amounts of total renewable energy required by this subsection shall be 55 percent of each retail electricity provider's annual retail electric sales during the year beginning on January 1, 2017, increasing by an additional four percent each third January 1 thereafter, until reaching 75 percent on and after January 1, 2032.

* * *

(D) Municipal providers; petition. On petition by a provider that is a municipal electric utility serving not more than 6,000 customers, the Board may reduce the provider's required amount under this subdivision (1) for a period of up to three years. The Board may approve one such period only for a municipal provider. The Board may reduce this required amount if it finds that:

(i) the terms or conditions of an environmental permit or certification necessitate a reduction in the electrical energy generated by an in-state hydroelectric facility that the provider owns and that this reduction will require the provider to purchase other renewable energy with environmental attributes attached or tradeable renewable energy credits in order to meet this required amount; and

(ii) this purchase will:

(I) cause the provider to increase significantly its retail rates; or

(II) materially impair the provider's ability to meet the public's need for energy services after safety concerns are addressed, in the manner set forth in subdivision 218c(a)(1)(least-cost integrated planning) of this title;

Twenty-first: After Sec. 26a, by inserting a reader guide and a new section to be numbered Sec. 26b to read as follows:

* * * Access to Public Service Board Process * * *

Sec. 26b. ACCESS TO PUBLIC SERVICE BOARD WORKING GROUP: REPORT

(a) Creation. There is created an Access to Public Service Board Working Group (the Working Group) to be composed of the following five members:

(1) One member of the Public Service Board (PSB), appointed by the Chair of the PSB.

(2) The Commissioner of Public Service or designee.

(3) A judicial officer of the State, appointed by the Chief Justice of the Supreme Court.

(4) A House member of the Joint Energy Committee established under 2 V.S.A. 17, appointed by the Speaker of the House; and

(5) A Senate member of the Joint Energy Committee established under 2 V.S.A. 17, appointed by the Committee on Committees.

(c) Powers and duties; term.

(1) The Working Group shall review the current processes for citizen participation in PSB proceedings and shall make recommendations to promote increased ease of citizen participation in those proceedings.

(2) On or before December 15, 2016, the Working Group shall submit its written recommendations to the House and Senate Committees on Energy and Natural Resources, the Senate Committee on Finance, and the Joint Energy Committee.

(3) The Working Group shall have the administrative, technical, and legal assistance of the staff of the PSB.

(4) The appointed member of the PSB shall call the first meeting of the Working Group to occur on or before July 1, 2016. At the first meeting, the Working Group shall elect a chair from among its members.

(5) The Working Group shall cease to exist on February 1, 2017.

Twenty-second: In Sec. 27 (effective dates), by inserting three new subdivisions to be numbered (3), (4), and (5) to read as follows:

(3) Sec. 22a (rules; petition) shall take effect on passage and Sec. 22 (rules) shall apply to the implementation of Sec. 22a.

(4) Secs. 23b (wind generation; obstruction lighting), 23c (existing facilities; obstruction lighting), and 26b (Access to Public Service Board Working Group) shall take effect on passage.

(5) In Sec. 18, 30 V.S.A. § 3(h)(3) (posting online; filings and orders) shall take effect on July 1, 2017.

And that when so amended the bill ought to pass.

Senator Sears, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill be amended as recommended by

the Committee on Natural Resources and Energy and the Committee on Finance with the following amendment thereto:

In the Committee on Finance report in the *seventh* recommendation of amendment in Sec. 11b, planning support; allocation of costs, in subsection (a), in the first sentence, by striking out the following: "For three fiscal years commencing on July 1, 2016" and inserting in lieu thereof the following: During fiscal year 2017 and after the following: "Community Development," by striking out the following: "annually"

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the report of the Committee on Finance was amended as recommended by the Committee on Appropriations.

Thereupon, pending the question, Shall the report of the Committee on Natural Resources be amended as recommended by the Committee on Finance?, Senator Degree demanded pursuant to Rule 67 the *nineteenth* recommendation of amendment of the Committee of Finance be divided.

Thereupon, the pending question, Shall the report of the Committee on Natural Resources be amended as recommended by the Committee on Finance in the *nineteenth* proposal, was agreed to.

Thereupon, the pending question, Shall the report of the Committee on Natural Resources be amended as recommended by the Committee on Finance?, in the *first* through *eighteenth* and *twentieth* through the *twenty-second* was decided in the affirmative.

Thereupon, the recommendation of amendment of the Committee on Natural Resources and Energy, as amended, was agreed to and third reading of the bill was ordered on a roll call, Yeas 25, Nay 3.

Senator Lyons having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Ashe, Ayer, Balint, Baruth, Benning, Bray, Campbell, Campion, Cummings, Doyle, Kitchel, Lyons, MacDonald, Mazza, Mullin, Nitka, Pollina, Riehle, Rodgers, Sears, Sirotkin, Starr, Westman, White, Zuckerman.

Those Senators who voted in the negative were: Collamore, Degree, Flory.

Those Senators absent and not voting were: McAllister (suspended), McCormack.

Bill Amended; Third Reading Ordered

S. 243.

Senator Lyons, for the Committee on Health and Welfare, to which was referred Senate bill entitled:

An act relating to combating opioid abuse in Vermont.

Reported recommending that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Vermont Prescription Monitoring System * * *

Sec. 1. 18 V.S.A. § 4284 is amended to read:

§ 4284. PROTECTION AND DISCLOSURE OF INFORMATION

* * *

(g) Following consultation with the ~~Unified Pain Management System~~ Controlled Substances and Pain Management Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to use information from VPMS to determine if individual prescribers and dispensers are using VPMS appropriately.

(h) Following consultation with the ~~Unified Pain Management System~~ Controlled Substances and Pain Management Advisory Council and an opportunity for input from stakeholders, the Department shall develop a policy that will enable it to evaluate the prescription of regulated drugs by prescribers.

* * *

Sec. 2. 18 V.S.A. § 4289 is amended to read:

§ 4289. STANDARDS AND GUIDELINES FOR HEALTH CARE PROVIDERS AND DISPENSERS

(a) Each professional licensing authority for health care providers shall develop evidence-based standards to guide health care providers in the appropriate prescription of Schedules II, III, and IV controlled substances for treatment of acute pain, chronic pain and for other medical conditions to be determined by the licensing authority. The standards developed by the licensing authorities shall be consistent with rules adopted by the Department of Health. The licensing authorities shall submit their standards to the Commissioner of Health, who shall review for consistency across health care providers and notify the applicable licensing authority of any inconsistencies identified.

(b)(1) Each health care provider who prescribes any Schedule II, III, or IV controlled substances shall register with the VPMS by November 15, 2013.

(2) If the VPMS shows that a patient has filled a prescription for a controlled substance written by a health care provider who is not a registered user of VPMS, the Commissioner of Health shall notify the applicable licensing authority and the provider by mail of the provider's registration requirement pursuant to subdivision (1) of this subsection.

(3) The Commissioner of Health shall develop additional procedures to ensure that all health care providers who prescribe controlled substances are registered in compliance with subdivision (1) of this subsection.

(c) Each dispenser who dispenses any Schedule II, III, or IV controlled substances shall register with the VPMS and shall query the VPMS in accordance with rules adopted by the Commissioner of Health.

(d) ~~Health~~ Except in the event of electronic or technological failure, health care providers shall query the VPMS with respect to an individual patient in the following circumstances:

(1) at least annually for patients who are receiving ongoing treatment with an opioid Schedule II, III, or IV controlled substance;

(2) when starting a patient on a Schedule II, III, or IV controlled substance for nonpalliative long-term pain therapy of 90 days or more;

(3) the first time the provider prescribes an opioid Schedule II, III, or IV controlled substance written to treat chronic pain; and

(4) prior to writing a replacement prescription for a Schedule II, III, or IV controlled substance pursuant to section 4290 of this title.

(e) The Commissioner of Health shall, after consultation with the ~~Unified Pain Management System~~ Controlled Substances and Pain Management Advisory Council, adopt rules necessary to effect the purposes of this section. The Commissioner and the Council shall consider additional circumstances under which health care providers should be required to query the VPMS, including whether health care providers should be required to query the VPMS prior to writing a prescription for any opioid Schedule II, III, or IV controlled substance or when a patient requests renewal of a prescription for an opioid Schedule II, III, or IV controlled substance written to treat acute pain, and the Commissioner may adopt rules accordingly.

(f) Each professional licensing authority for dispensers shall adopt standards, consistent with rules adopted by the Department of Health under this section, regarding the frequency and circumstances under which its respective licensees shall:

(1) query the VPMS; and

(2) report to the VPMS, which shall be no less than once ~~every seven days~~ daily.

(g) Each professional licensing authority for health care providers and dispensers shall consider the statutory requirements, rules, and standards adopted pursuant to this section in disciplinary proceedings when determining whether a licensee has complied with the applicable standard of care.

* * * Expanding Access to Substance Abuse Treatment with Buprenorphine * * *

Sec. 3. 18 V.S.A. chapter 93 is amended to read:

CHAPTER 93. TREATMENT OF OPIOID ADDICTION

Subchapter 1. Regional Opioid Addiction Treatment System

§ 4751. PURPOSE

It is the purpose of this ~~chapter~~ subchapter to authorize the ~~department of health~~ Department of Health to establish a regional system of opioid addiction treatment.

* * *

Subchapter 2. Opioid Addiction Treatment Care Coordination

§ 4771. CARE COORDINATION

(a) In addition to participation in the regional system of opioid addiction treatment established pursuant to subchapter 1 of this chapter, health care providers may coordinate patient care in order to provide to the maximum number of patients high quality opioid addiction treatment with buprenorphine or a drug containing buprenorphine.

(b) Care for patients with opioid addiction may be provided by a care coordination team comprising the patient's primary care provider, a qualified addiction medicine physician or nurse practitioner as described in subsection (c) of this section, and members of a medication-assisted treatment team affiliated with the Blueprint for Health.

(c)(1) A primary care provider participating in the care coordination team and prescribing buprenorphine or a drug containing buprenorphine pursuant to this section shall meet federal requirements for prescribing buprenorphine or a drug containing buprenorphine to treat opioid addiction and shall see the patient he or she is treating for opioid addiction for an office visit at least once every three months.

(2)(A) A qualified addiction medicine physician participating in a care coordination team pursuant to this section shall be a physician who is

board-certified in addiction medicine or satisfies one or more of the following conditions:

(i) has completed not fewer than 24 hours of classroom or interactive training in the treatment and management of opioid-dependent patients for substance use disorders provided by the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Medical Association, the American Osteopathic Association, the American Psychiatric Association, or any other organization that the Commissioner of Health deems appropriate; or

(ii) has such other training and experience as the Commissioner of Health determines will demonstrate the ability of the physician to treat and manage opioid dependent patients.

(B) The qualified physician shall see the patient for addiction-related treatment other than the prescription of buprenorphine or a drug containing buprenorphine and shall advise the patient's primary care physician.

(3)(A) A qualified addiction medicine nurse practitioner participating in a care coordination team pursuant to this section shall be an advanced practice registered nurse who is certified as a nurse practitioner and who satisfies one or more of the following conditions:

(i) has completed not fewer than 24 hours of classroom or interactive training in the treatment and management of opioid-dependent patients for substance use disorders provided by the American Society of Addiction Medicine, the American Academy of Addiction Psychiatry, the American Medical Association, the American Osteopathic Association, the American Psychiatric Association, or any other organization that the Commissioner of Health deems appropriate; or

(ii) has such other training and experience as the Commissioner of Health determines will demonstrate the ability of the nurse practitioner to treat and manage opioid dependent patients.

(B) The qualified nurse practitioner shall see the patient for addiction-related treatment other than the prescription of buprenorphine or a drug containing buprenorphine and shall advise the patient's primary care physician.

(d) The primary care provider, qualified addiction medicine physician or nurse practitioner, and medication-assisted treatment team members shall coordinate the patient's care and shall communicate with one another as often as needed to ensure that the patient receives the highest quality of care.

(e) The Director of the Blueprint for Health shall recommend to the Commissioner of Vermont Health Access whether to increase payments to primary care providers participating in the Blueprint who choose to engage in care coordination by prescribing buprenorphine or a drug containing buprenorphine for patients with opioid addiction pursuant to this section.

Sec. 4. TELEMEDICINE FOR TREATMENT OF SUBSTANCE USE DISORDER; PILOT

(a) The Green Mountain Care Board and Department of Vermont Health Access shall develop a pilot program to enable a patient taking buprenorphine or a drug containing buprenorphine for a substance use disorder to receive treatment from an addiction medicine specialist delivered through telemedicine at a health care facility that is capable of providing a secure telemedicine connection and whose location is convenient to the patient. The Board and the Department shall ensure that both the specialist and the hosting facility are reimbursed for services rendered.

(b)(1) Patients beginning treatment for a substance use disorder with buprenorphine or a drug containing buprenorphine shall not receive treatment through telemedicine. A patient may receive treatment through telemedicine only after a period of stabilization on the buprenorphine or drug containing buprenorphine, as measured by an addiction medicine specialist using an assessment tool approved by the Department of Health.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, patients whose care has been transferred from a regional specialty addictions treatment center may begin receiving treatment through telemedicine immediately upon the transfer of care to an office-based opioid treatment provider.

(c) On or before January 15, 2017 and annually thereafter, the Board and the Department shall provide a progress report on the pilot program to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare.

* * * Expanding Role of Pharmacies and Pharmacists * * *

Sec. 5. 26 V.S.A. § 2022 is amended to read:

§ 2022. DEFINITIONS

As used in this chapter:

* * *

(14)(A) "Practice of pharmacy" means:

(i) the interpretation and evaluation of prescription orders;

(ii) the compounding, dispensing, and labeling of drugs and legend devices (except labeling by a manufacturer, packer, or distributor of nonprescription drugs and commercially packaged legend drugs and legend devices);

(iii) the participation in drug selection and drug utilization reviews;

(iv) the proper and safe storage of drugs and legend devices and the maintenance of proper records therefor;

(v) the responsibility for advising, where necessary or where regulated, of therapeutic values, content, hazards, and use of drugs and legend devices; ~~and~~

(vi) the providing of patient care services within the pharmacist's authorized scope of practice;

(vii) the optimizing of drug therapy through the practice of clinical pharmacy; and

(viii) the offering or performing of those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of pharmacy.

(B) "Practice of clinical pharmacy" means:

(i) the health science discipline in which, in conjunction with the patient's other practitioners, a pharmacist provides patient care to optimize medication therapy and to promote disease prevention and the patient's health and wellness;

(ii) the provision of patient care services within the pharmacist's authorized scope of practice, including medication therapy management, comprehensive medication review, and postdiagnostic disease state management services; or

(iii) the practice of pharmacy by a pharmacist pursuant to a collaborative practice agreement.

(C) A rule shall not be adopted by the Board under this chapter that shall require the sale and distribution of nonprescription drugs by a licensed pharmacist or under the supervision of a licensed pharmacist or otherwise interfere with the sale and distribution of such medicines.

* * *

(19) "Collaborative practice agreement" means a written agreement between a pharmacist and a health care facility or prescribing practitioner that

permits the pharmacist to engage in the practice of clinical pharmacy for the benefit of the facility's or practitioner's patients.

Sec. 6. 26 V.S.A. § 2023 is added to read:

§ 2023. CLINICAL PHARMACY

In accordance with rules adopted by the Board, a pharmacist may engage in the practice of clinical pharmacy.

Sec. 7. 8 V.S.A. § 4089j is amended to read:

§ 4089j. RETAIL PHARMACIES; FILLING OF PRESCRIPTIONS

(a) ~~A health insurer and pharmacy benefit manager doing business in Vermont shall permit a retail pharmacist licensed under 26 V.S.A. chapter 36 to fill prescriptions in the same manner and at the same level of reimbursement as they are filled by mail order pharmacies with respect to the quantity of drugs or days' supply of drugs dispensed under each prescription.~~

~~(b)~~ As used in this section:

(1) "Health insurer" ~~is defined by~~ shall have the same meaning as in 18 V.S.A. § 9402 and shall also include Medicaid and any other public health care assistance program.

(2) "Pharmacy benefit manager" means an entity that performs pharmacy benefit management. "Pharmacy benefit management" means an arrangement for the procurement of prescription drugs at negotiated dispensing rates, the administration or management of prescription drug benefits provided by a health insurance plan for the benefit of beneficiaries, or any of the following services provided with regard to the administration of pharmacy benefits:

(A) mail service pharmacy;

(B) claims processing, retail network management, and payment of claims to pharmacies for prescription drugs dispensed to beneficiaries;

(C) clinical formulary development and management services;

(D) rebate contracting and administration;

(E) certain patient compliance, therapeutic intervention, and generic substitution programs; and

(F) disease management programs.

(3) "Health care provider" means a person, partnership, or corporation, other than a facility or institution, that is licensed, certified, or otherwise

authorized by law to provide professional health care service in this State to an individual during that individual's medical care, treatment, or confinement.

(b) A health insurer and pharmacy benefit manager doing business in Vermont shall permit a retail pharmacist licensed under 26 V.S.A. chapter 36 to fill prescriptions in the same manner and at the same level of reimbursement as they are filled by mail order pharmacies with respect to the quantity of drugs or days' supply of drugs dispensed under each prescription.

(c) ~~This section shall apply to Medicaid and any other public health care assistance program.~~ Notwithstanding any provision of a health insurance plan to the contrary, if a health insurance plan provides for payment or reimbursement that is within the lawful scope of practice of a pharmacist, the insurer may provide payment or reimbursement for the service when the service is provided by a pharmacist.

Sec. 8. ROLE OF PHARMACIES IN PREVENTING OPIOID ABUSE; REPORT

(a) The Department of Health, in consultation with the Board of Pharmacy, pharmacists, prescribing health care practitioners, health insurers, pharmacy benefit managers, and other interested stakeholders shall consider the role of pharmacies in preventing opioid misuse, abuse, and diversion. The Department's evaluation shall include a consideration of whether, under what circumstances, and in what amount pharmacists should be reimbursed for counting or otherwise evaluating the quantity of pills, films, patches, and solutions of opioid controlled substances prescribed by a health care provider to his or her patients.

(b) On or before January 15, 2017, the Department shall report to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare its findings and recommendations with respect to the appropriate role of pharmacies in preventing opioid misuse, abuse, and diversion.

* * * Continuing Medical Education * * *

Sec. 9. CONTINUING EDUCATION; PROFESSIONAL LICENSING BOARDS

(a) On or before December 15, 2016, the professional boards that license physicians, osteopathic physicians, dentists, pharmacists, advanced practice registered nurses, optometrists, and naturopathic physicians shall amend their continuing education rules to require a total of at least two hours of continuing education for each licensing period for all licensees with a registration number from the U.S. Drug Enforcement Administration (DEA), who have a pending application for a DEA number, or who dispense controlled substances on the

topics of the abuse and diversion, safe use, and appropriate storage and disposal of controlled substances; the appropriate use of the Vermont Prescription Monitoring System; risk assessment for abuse or addiction; pharmacological and nonpharmacological alternatives to opioids for managing pain; medication tapering; and relevant State and federal laws and regulations concerning the prescription of opioid controlled substances.

(b) The Department of Health shall consult with the Board of Veterinary Medicine and the Agency of Agriculture, Food and Markets to develop recommendations regarding appropriate safe prescribing and disposal of controlled substances prescribed by veterinarians for animals and dispensed to their owners, as well as appropriate continuing education for veterinarians on the topics described in subsection (a) of this section. On or before January 15, 2017, the Department shall report its findings and recommendations to the House Committees on Agriculture and Forest Products and on Human Services and the Senate Committees on Agriculture and on Health and Welfare.

* * * Medical Education Core Competencies * * *

Sec. 10. MEDICAL EDUCATION CORE COMPETENCIES; PREVENTION AND MANAGEMENT OF PRESCRIPTION DRUG MISUSE

The Commissioner of Health shall convene medical educators and other stakeholders to develop appropriate curricular interventions and innovations to ensure that students in medical education programs have access to certain core competencies related to safe prescribing practices and to screening, prevention, and intervention for cases of prescription drug misuse and abuse. The goal of the core competencies shall be to support future health care professionals over the course of their medical education to develop skills and a foundational knowledge in the prevention of prescription drug misuse. These competencies should be clear baseline standards for preventing prescription drug misuse, treating patients at risk for substance use disorders, and managing substance use disorders as a chronic disease, as well as developing knowledge in the areas of screening, evaluation, treatment planning, and supportive recovery.

* * * Community Grant Program for Opioid Prevention * * *

Sec. 11. REGIONAL PREVENTION PARTNERSHIPS

To the extent funds are available, the Department of Health shall establish a community grant program for the purpose of supporting local opioid prevention strategies. This program shall support evidence-based approaches and shall be based on a comprehensive community plan, including community education and initiatives designed to increase awareness or implement local

programs, or both. Partnerships involving schools, local government, and hospitals shall receive priority.

* * * Pharmaceutical Manufacturer Fee * * *

Sec. 12. 33 V.S.A. § 2004 is amended to read:

§ 2004. MANUFACTURER FEE

(a) Annually, each pharmaceutical manufacturer or labeler of prescription drugs that are paid for by the Department of Vermont Health Access for individuals participating in Medicaid, Dr. Dynasaur, or VPharm shall pay a fee to the Agency of Human Services. The fee shall be ~~0.5~~ 1.235 percent of the previous calendar year's prescription drug spending by the Department and shall be assessed based on manufacturer labeler codes as used in the Medicaid rebate program.

(b) Fees collected under this section shall fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633, analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities, the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A, the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2, statewide unused prescription drug disposal initiatives, nonpharmacological approaches to pain management, a hospital antimicrobial program for the purpose of reducing hospital-acquired infections, the purchase and distribution of naloxone to emergency medical services personnel, and any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents. The fees shall be collected in the Evidence-Based Education and Advertising Fund established in section 2004a of this title.

(c) The Secretary of Human Services or designee shall make rules for the implementation of this section.

Sec. 13. 33 V.S.A. § 2004a(a) is amended to read:

(a) The Evidence-Based Education and Advertising Fund is established in the State Treasury as a special fund to be a source of financing for activities relating to fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633, for analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities, for the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A, for the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2, for statewide unused prescription drug disposal initiatives, for nonpharmacological approaches to pain management, for a hospital antimicrobial program for the purpose of reducing hospital-acquired infections, for the purchase and

distribution of naloxone to emergency medical services personnel, and for the support of any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents. Monies deposited into the Fund shall be used for the purposes described in this section.

* * * Controlled Substances and Pain Management Advisory Council * * *

Sec. 14. 18 V.S.A. § 4255 is added to read:

§ 4255. CONTROLLED SUBSTANCES AND PAIN MANAGEMENT ADVISORY COUNCIL

(a) There is hereby created a Controlled Substances and Pain Management Advisory Council for the purpose of advising the Commissioner of Health on matters related to the Vermont Prescription Monitoring System and to the appropriate use of controlled substances in treating acute and chronic pain and in preventing prescription drug abuse, misuse, and diversion.

(b)(1) The Controlled Substances and Pain Management Advisory Council shall consist of the following members:

(A) the Commissioner of Health or designee, who shall serve as chair;

(B) the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs or designee;

(C) the Commissioner of Mental Health or designee;

(D) the Commissioner of Public Safety or designee;

(E) the Vermont Attorney General or designee;

(F) the Director of the Blueprint for Health or designee;

(G) the Medical Director of the Department of Vermont Health Access;

(H) the Chair of the Board of Medical Practice or designee, who shall be a clinician;

(I) a representative of the Vermont State Dental Society, who shall be a dentist;

(J) a representative of the Vermont Board of Pharmacy, who shall be a pharmacist;

(K) a faculty member of the academic detailing program at the University of Vermont's College of Medicine;

(L) a faculty member of the University of Vermont's College of Medicine with expertise in the treatment of addiction or chronic pain management;

(M) a representative of the Vermont Medical Society, who shall be a primary care clinician;

(N) a representative of the American Academy of Family Physicians, Vermont chapter, who shall be a primary care clinician;

(O) a representative from the Vermont Board of Osteopathic Physicians, who shall be an osteopath;

(P) a representative of the Federally Qualified Health Centers, who shall be a primary care clinician selected by the Bi-State Primary Care Association;

(Q) a representative of the Vermont Ethics Network;

(R) a representative of the Hospice and Palliative Care Council of Vermont;

(S) a representative of the Office of the Health Care Advocate;

(T) a clinician who works in the emergency department of a hospital, to be selected by the Vermont Association of Hospitals and Health Systems in consultation with any nonmember hospitals;

(U) a member of the Vermont Board of Nursing Subcommittee on APRN Practice, who shall be an advanced practice registered nurse;

(V) a representative from the Vermont Assembly of Home Health and Hospice Agencies;

(W) a psychologist licensed pursuant to 26 V.S.A. chapter 55 who has experience in treating chronic pain, to be selected by the Board of Psychological Examiners;

(X) a drug and alcohol abuse counselor licensed pursuant to 33 V.S.A. chapter 8, to be selected by the Deputy Commissioner of Health for Alcohol and Drug Abuse Programs;

(Y) a retail pharmacist, to be selected by the Vermont Pharmacists Association;

(Z) an advanced practice registered nurse full-time faculty member from the University of Vermont's College of Nursing and Health Sciences;

(AA) a licensed acupuncturist with experience in pain management, to be selected by the Vermont Acupuncture Association;

(BB) a representative of the Vermont Substance Abuse Treatment Providers Association;

(CC) a consumer representative who is either a consumer in recovery from prescription drug abuse or a consumer receiving medical treatment for chronic noncancer-related pain; and

(DD) up to three adjunct members appointed by the Commissioner in consultation with the Opioid Prescribing Task Force.

(2) In addition to the members appointed pursuant to subdivision (1) of this subsection (b), the Council shall consult with specialists and other individuals as appropriate to the topic under consideration.

(c) Advisory Council members who are not employed by the State or whose participation is not supported through their employment or association shall be entitled to a per diem and expenses as provided by 32 V.S.A. § 1010.

(d)(1) The Advisory Council shall provide advice to the Commissioner concerning rules for the appropriate use of controlled substances in treating acute pain and chronic noncancer pain; the appropriate use of the Vermont Prescription Monitoring System; and the prevention of prescription drug abuse, misuse, and diversion.

(2) The Advisory Council shall evaluate the use of nonpharmacological approaches to treatment for pain, including the appropriateness, efficacy, and cost-effectiveness of using complementary and alternative therapies such as chiropractic, acupuncture, and massage.

(e) The Commissioner of Health may adopt rules pursuant to 3 V.S.A. chapter 25 regarding the appropriate use of controlled substances in treating acute pain and chronic noncancer pain; the appropriate use of the Vermont Prescription Monitoring System; and the prevention of prescription drug abuse, misuse, and diversion, after seeking the advice of the Council.

* * * Acupuncture * * *

Sec. 15. ACUPUNCTURE AS ALTERNATIVE TREATMENT FOR PAIN MANAGEMENT AND SUBSTANCE USE DISORDER; REPORTS

(a) The Director of Health Care Reform in the Agency of Administration, in consultation with the Departments of Health and of Human Resources, shall review Vermont State employees' experience with acupuncture for treatment of pain. On or before December 1, 2016, the Director shall report his or her findings to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare.

(b) Each nonprofit hospital and medical service corporation licensed to do business in this State and providing coverage for pain management shall evaluate the evidence supporting the use of acupuncture as a modality for treating and managing pain in its enrollees, including the experience of other states in which acupuncture is covered by health insurance plans. On or before January 15, 2017, each such corporation shall report to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare its assessment of whether its insurance plans should provide coverage for acupuncture when used to treat or manage pain.

(c) On or before January 15, 2017, the Department of Health, Division of Alcohol and Drug Abuse Programs shall make available to its preferred provider network evidence-based best practices related to the use of acupuncture to treat substance use disorder.

Sec. 15a. ACUPUNCTURE; MEDICAID PILOT PROJECT

(a) The Department of Vermont Health Access shall develop a pilot project to offer acupuncture services to Medicaid-eligible Vermonters with a diagnosis of chronic pain. The project would provide acupuncture services for a defined period of time to determine if acupuncture treatment as an alternative or adjunctive to prescribing opioids is as effective or more effective than opioids alone for returning individuals to social, occupational, and psychological function. The project shall include:

(1) an advisory group of pain management specialists and acupuncture providers familiar with the current science on evidence-based use of acupuncture to treat or manage chronic pain;

(2) specific patient eligibility requirements regarding the specific cause or site of chronic pain for which the evidence indicates acupuncture may be an appropriate treatment; and

(3) input and involvement from the Department of Health to promote consistency with other State policy initiatives designed to reduce the reliance on opioid medications in treating or managing chronic pain.

(b) On or before January 15, 2017, the Department of Vermont Health Access shall provide a progress report on the pilot project to the House Committees on Health Care and on Human Services and the Senate Committee on Health and Welfare that includes an implementation plan for the pilot project described in this section. In addition, the Department shall consider any appropriate role for acupuncture in treating substance use disorder, including consulting with health care providers using acupuncture in this manner, and shall make recommendations in its progress report regarding the

use of acupuncture in treating Medicaid beneficiaries with substance use disorder.

* * * Rulemaking * * *

Sec. 16. PRESCRIBING OPIOIDS FOR ACUTE AND CHRONIC PAIN; RULEMAKING

(a) The Commissioner of Health, after consultation with the Controlled Substances and Pain Management Advisory Council, shall adopt rules governing the prescription of opioids. The rules may include numeric and temporal limitations on the number of pills prescribed, including a maximum number of pills to be prescribed following minor medical procedures, consistent with evidence-informed best practices for effective pain management. The rules may require the contemporaneous prescription of naloxone in certain circumstances, and shall require informed consent for patients that explains the risks associated with taking opioids, including addiction, physical dependence, side effects, tolerance, overdose, and death. The rules shall also require prescribers prescribing opioids to patients to provide information concerning the safe storage and disposal of controlled substances.

* * * Appropriations* * *

Sec. 17. APPROPRIATIONS

(a) The sum of $250,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of funding the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2, including evidence-based information about safe prescribing of controlled substances and alternatives to opioids for treating pain.

(b) The sum of $625,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of funding statewide unused prescription drug disposal initiatives, of which $100,000.00 shall be used for a MedSafe collection and disposal program and program coordinator, $50,000.00 shall be used for unused medication envelopes for a mail-back program, $225,000.00 shall be used for a public information campaign on the safe disposal of controlled substances, and $250,000.00 shall be used for a public information campaign on the responsible use of prescription drugs.

(c) The sum of $150,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of purchasing and distributing opioid antagonist rescue kits.

(d) The sum of $250,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of establishing a hospital antimicrobial program to reduce hospital-acquired infections.

(e) The sum of $32,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Health in fiscal year 2017 for the purpose of purchasing and distributing naloxone to emergency medical services personnel throughout the State.

(f) The sum of $200,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Vermont Health Access in fiscal year 2017 for the purpose of implementing the pilot project established in Sec. 15a to evaluate the use of acupuncture in treating chronic pain in Medicaid beneficiaries.

Sec. 18. REPEAL

2013 Acts and Resolves No. 75, Sec. 14, as amended by 2014 Acts and Resolves No. 199, Sec. 60 (Unified Pain Management System Advisory Council) is repealed.

* * * Effective Dates * * *

Sec. 19. EFFECTIVE DATES

(a) Secs. 1–2 (VPMS), 3 (opioid addiction treatment care coordination), 13 (use of Evidence-Based Education and Advertising Fund), 14 (Controlled Substances and Pain Management Advisory Council), 17 (appropriations), and 18 (repeal) shall take effect on July 1, 2016, except that in Sec. 2, 18 V.S.A. § 4289(f)(2) (dispenser reporting to VPMS) shall take effect 30 days following notice and a determination by the Commissioner of Health that daily reporting is practicable.

(b) Secs. 4 (telemedicine pilot), 5–7 (clinical pharmacy), 8 (role of pharmacies; report), 10 (medical education), 11 (regional partnerships), 15–15a (acupuncture studies), 16 (rulemaking), and this section shall take effect on passage.

(c) Sec. 9 (continuing education) shall take effect on July 1, 2016 and shall apply beginning with licensing periods beginning on or after that date.

(d) Notwithstanding 1 V.S.A. § 214, Sec. 12 (manufacturer fee) shall take effect on passage and shall apply retroactive to January 1, 2016.

And that when so amended the bill ought to pass.

Senator Ayer, for the Committee on Finance, to which the bill was referred, reported recommending that the bill be amended as recommended by the Committee on Health and Welfare with the following amendment thereto:

In Sec. 12, 33 V.S.A. § 2004, by adding a new subsection to be subsection (d) to read as follows:

(d) A pharmaceutical manufacturer that fails to pay a fee as required under this section shall be assessed penalties and interest in the same amounts and under the same terms as apply to late payment of income taxes pursuant to 32 V.S.A. chapter 151. The Department shall maintain on its website a list of the manufacturers who have failed to provide timely payment as required under this section.

Senator Kitchel, for the Committee on Appropriations, to which the bill was referred, reported recommending that the bill ought to pass when amended as recommended by the Committees on Health and Welfare and Finance.

Thereupon, the bill was read the second time by title only pursuant to Rule 43, and the recommendation the Committee on Health and Welfare was amended as recommended by the Committee on Finance.

Thereupon, Senators Ayer, Collamore, Lyons, McCormack, and Pollina moved to amend the recommendation of amendment of the Committee on Health and Welfare, as amended, as follows:

First: In Sec. 2, 18 V.S.A. § 4289, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f)(1) Each professional licensing authority for dispensers shall adopt standards, consistent with rules adopted by the Department of Health under this section, regarding the frequency and circumstances under which its respective licensees shall:

~~(1)~~ query the VPMS~~; and~~.

(2) ~~report to the VPMS, which shall be no less than once every seven days~~ Pharmacies and other dispensers shall report each dispensed prescription for a Schedule II, III, or IV controlled substance to the VPMS within 24 hours or one business day after dispensing.

Second: In Sec. 12, 33 V.S.A. § 2004, by striking out subsections (a) and (b) in their entirety and inserting in lieu thereof new subsections (a) and (b) to read as follows:

(a) Annually, each pharmaceutical manufacturer or labeler of prescription drugs that are paid for by the Department of Vermont Health Access for individuals participating in Medicaid, Dr. Dynasaur, or VPharm shall pay a fee to the Agency of Human Services. The fee shall be ~~0.5~~ 1.5 percent of the previous calendar year's prescription drug spending by the Department and shall be assessed based on manufacturer labeler codes as used in the Medicaid rebate program.

(b) Fees collected under this section shall fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633~~,~~; analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities~~,~~; the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A~~,~~; the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2~~,~~; statewide unused prescription drug disposal initiatives; prevention of prescription drug misuse, abuse, and diversion; treatment of substance use disorder; exploration of nonpharmacological approaches to pain management; a hospital antimicrobial program for the purpose of reducing hospital-acquired infections; the purchase and distribution of naloxone to emergency medical services personnel; and any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents. The fees shall be collected in the Evidence-Based Education and Advertising Fund established in section 2004a of this title.

Third: By striking out Sec. 13, 33 V.S.A. § 2004a(a), in its entirety and inserting in lieu thereof a new Sec. 13, 33 V.S.A. § 2004a(a) to read as follows:

Sec. 13. 33 V.S.A. § 2004a(a) is amended to read:

(a) The Evidence-Based Education and Advertising Fund is established in the State Treasury as a special fund to be a source of financing for activities relating to fund collection and analysis of information on pharmaceutical marketing activities under 18 V.S.A. §§ 4632 and 4633~~,~~; for analysis of prescription drug data needed by the Office of the Attorney General for enforcement activities~~,~~; for the Vermont Prescription Monitoring System established in 18 V.S.A. chapter 84A~~,~~; for the evidence-based education program established in 18 V.S.A. chapter 91, subchapter 2~~,~~; for statewide unused prescription drug disposal initiatives; for the prevention of prescription drug misuse, abuse, and diversion; for treatment of substance use disorder; for exploration of nonpharmacological approaches to pain management; for a hospital antimicrobial program for the purpose of reducing hospital-acquired infections; for the purchase and distribution of naloxone to emergency medical services personnel; and for the support of any opioid-antagonist education, training, and distribution program operated by the Department of Health or its agents. Monies deposited into the Fund shall be used for the purposes described in this section.

Fourth: In Sec. 17, appropriations, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) The sum of $200,000.00 is appropriated from the Evidence-Based Education and Advertising Fund to the Department of Vermont Health Access

in fiscal year 2017 for the purpose of exploring nonpharmacological approaches to pain management by implementing the pilot project established in Sec. 15a of this act to evaluate the use of acupuncture in treating chronic pain in Medicaid beneficiaries.

Which was agreed to.

Thereupon, the recommendation of amendment of Committee on Health and Welfare, as amended, was agreed to and third reading of the bill was ordered.

Senate Resolution Amended; Third Reading Ordered

S.R. 9.

Senator Mullin, for the Committee on Economic Development, Housing and General Affairs, to which was referred Senate Resolution entitled:

Senate resolution relating to the proposed Trans-Pacific Partnership Agreement.

Reported recommending that the resolution be amended by striking out the first Whereas clause in its entirety and inserting in lieu thereof the following:

Whereas, many U.S. trade deals have incorporated rules that skew benefits, requiring working families to bear the brunt of such policies, and

And that when so amended the resolution ought to adopted.

Thereupon, the resolution was read the second time by title only pursuant to Rule 43, the recommendation of amendment was agreed to, and third reading of the resolution was ordered.

Adjournment

On motion of Senator Campbell, the Senate adjourned until one o'clock in the afternoon on Thursday, March 31, 2016.

THURSDAY, MARCH 31, 2016

The Senate was called to order by the President.

Devotional Exercises

Devotional exercises were conducted by the Rabbi James Glazier of South Burlington.

Message from the House No. 43

A message was received from the House of Representatives by Mr. Jeremy Weiss, its Second Assistant Clerk, as follows:

Mr. President:

I am directed to inform the Senate that:

The House has considered joint resolution originating in the Senate of the following title:

J.R.S. 49. Joint resolution relating to weekend adjournment.

And has adopted the same in concurrence.

Committee Relieved of Further Consideration; Bill Committed

H. 610.

On motion of Senator Bray, the Committee on Natural Resources and Energy was relieved of further consideration of House bill entitled:

An act relating to clarifying the Clean Water State Revolving Fund and Water Pollution Control Grant Programs,

and the bill was committed to the Committee on Institutions.

Standing Committees Realigned

The President, on behalf of the Committee on Committees, and as a result of the resignation of Senator Diane B. Snelling and subsequent replacement by Senator Helen S. Riehle, reported realignments and new appointments for two of the standing committees, as follows:

Appropriations

Senator Kitchel, Chair
Nitka, Vice-Chair
McCormack
Sears
[Snelling, Clerk]
Starr
Campbell
Westman

Natural Resources and Energy

Senator Bray, Chair
Campion, *Vice-Chair*
[Snelling, Vice-Chair]
MacDonald
Rodgers
Riehle

Message from the Governor
Appointment Referred

A message was received from the Governor, by Susan Allen, Secretary of Civil and Military Affairs, submitting the following appointment, which was referred to the committee as indicated:

Snelling, Diane B. of Hinesburg - Chair of the Natural Resources Board, - from March 30, 2016, to serve at the Governor's Pleasure.

To the Committee on Natural Resources and Energy.

Bill Amended; Bill Passed

S. 243.

Senate bill entitled:

An act relating to combating opioid abuse in Vermont.

Was taken up.

Thereupon, pending third reading of the bill, Senator Ayer moved to amend the bill in Sec. 3, 18 V.S.A. chapter 93, by striking out subchapter 1, regional opioid addiction treatment system, in its entirety and inserting in lieu thereof the following:

Subchapter 1. Regional Opioid Addiction Treatment System

§ 4751. PURPOSE

It is the purpose of this ~~chapter~~ subchapter to authorize the ~~department of health~~ Departments of Health and of Vermont Health Access to establish a regional system of opioid addiction treatment.

§ 4752. OPIOID ADDICTION TREATMENT SYSTEM

(a) The ~~department of health~~ Departments of Health and of Vermont Health Access shall establish by rule a regional system of opioid addiction treatment.

* * *

(c) ~~No later than January 15 of each year from 2013 through 2016, inclusive, the commissioner shall report to the house committees on human services and on health care and the senate committee on health and welfare regarding the regional system of opioid addiction treatment, including the system's effectiveness.~~ [Repealed.]

Which was agreed to.

Thereupon, the bill was read the third time and passed.

Senate Resolution Adopted

S.R. 9.

Senate resolution of the following title was read the third time and adopted:

Senate resolution relating to the proposed Trans-Pacific Partnership Agreement.

Recess

On motion of Senator Campbell the Senate recessed until 2:30 P.M.

Called to Order

The Senate was called to order by the President.

Recess

On motion of Senator Campbell the Senate recessed until 2:45 P.M.

Called to Order

The Senate was called to order by the President.

Bill Amended; Consideration Interrupted by Recess

S. 230.

Senate bill entitled:

An act relating to improving the siting of energy projects.

Was taken up.

Thereupon, pending third reading of the bill, Senators Bray, Campbell, and Kitchel moved to amend the bill as follows:

First: In Sec. 7, 24 V.S.A. § 4352, after subsection (d), by inserting a new subsection (e) to read as follows:

(e) Appeal. A regional planning commission aggrieved by an act or decision of the Commissioner of Public Service under this section or a municipality aggrieved by an act or decision of a municipality under this section may appeal to a hearing officer. The hearing officer shall be one of five attorneys retained by the Commissioner for this purpose, none of whom shall be an employee of the Department of Public Service. The parties shall jointly select the hearing officer from among these retained attorneys. The hearing officer shall conduct a de novo hearing on the act or decision under appeal and shall proceed in accordance with the contested case requirements of the Vermont Administrative Procedure Act. The hearing officer shall have authority to decide the appeal. A hearing officer shall not conduct an appeal if the officer has a personal or pecuniary interest in the act or decision on appeal.

Second: In Sec. 8, 24 V.S.A. § 4382, in subsection (a), in the first sentence, by striking out the following: "~~may~~ shall" and inserting in lieu thereof the following: may

Third: In Sec. 12, 30 V.S.A. § 248(b), in subdivision (1), by striking out subparagraph (C) in its entirety and inserting in lieu thereof a new subparagraph (C) to read as follows:

(C) The Board shall apply the land conservation measures and specific policies contained in a duly adopted municipal or regional plan to an application for an in-state electric generation facility as follows:

(i) For an application filed before March 1, 2017, the Board shall defer to such a measure or policy and apply it in accordance with its terms unless a preponderance of the evidence demonstrates that other factors affecting the general good of the State outweigh the application of the measure or policy.

(ii) For an application filed on or after March 1, 2017:

(I) If the plan has received a certificate of energy compliance under 24 V.S.A. § 4352, the Board shall defer to such a measure or policy and apply it in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy.

(II) If the plan has not received a certificate of energy compliance under 24 V.S.A. § 4352, the Board shall give due consideration to such a measure or policy.

Fourth: After Sec. 23d, by inserting a new section to be numbered Sec. 23e to read as follows:

Sec. 23e. 30 V.S.A. § 248(y) is added to read:

(y) With respect to each in-state wind generation facility subject to a certificate of public good under this section, the Board shall retain a qualified acoustical engineer, at the cost of the certificate holder, to monitor continuously the sound produced by the facility and the facility's compliance with any requirements and conditions pertaining to sound generation included in the facility's certificate of public good. The engineer shall install equipment that allows such continuous monitoring. The engineer shall be responsible to the Board and independent of the certificate holder. The engineer shall report the monitoring results to the Board. Notwithstanding any contrary provision of 1 V.S.A. §§ 213 and 214, this subsection shall apply to all wind generation facilities subject to a certificate of public good under this section, regardless of the date on which the certificate was issued.

Fifth: By striking out Sec. 24 in its entirety and inserting in lieu thereof two new sections to be Secs. 24 and 24a to read as follows:

Sec. 24. SOUND STANDARDS DOCKET; COMPLETION

(a) On or before October 1, 2016, the Public Service Board (the Board) shall issue a final decision in its pending Docket 8167, Investigation into the potential establishment of standards related to sound levels from the operation of generation, transmission, and distribution equipment by entities subject to Public Service Board jurisdiction (the docket).

(b) Notwithstanding any contrary language in a prior Board order, the scope of this docket and the Board's final decision in the docket shall include the Board's recommendations on each of the following with respect to wind generation facilities and its plan for implementing those recommendations:

(1) The maximum allowable instantaneous audible sound levels for these facilities and the exterior and interior locations at which these levels should apply. In this section, "audible sound" refers to sound at frequencies from 20 hertz through 20 kilohertz.

(2) The maximum allowable average audible sound levels for these facilities, the period over which these levels should be measured, and the exterior and interior locations at which these levels should apply. In reviewing this question, the Board shall consider whether the measurement period should be less than one hour.

(3) The release of sound monitoring data to the public, including the timeliness of the release, the release of raw data, and the availability of the data online. In reviewing this question, the Board shall consider the existence and validity, if any, of assertions that such data is proprietary or confidential.

(4) A minimum setback requirement for each wind turbine, measured from the tower to the nearest property line of the tract on which the turbine is located.

(c) Before issuing a final decision in the docket, the Board shall provide each of the following:

(1) Notice of the issues described in subsection (b) of this section in the same manner as the Board provided notice of its order opening the docket.

(2) Opportunity for the existing docket parties and members of the public to submit written information and request the conduct of a workshop on these issues. The Board shall hold such a workshop if requested and may hold one or more workshops on these issues on its own initiative.

Sec. 24a. INFRASOUND; REPORT

(a) On or before October 1, 2016, the Commissioner of Health shall submit a written report on whether there should be maximum allowable instantaneous or average levels, or both, for infrasound from wind generation and, if so, what they should be and how they should be measured. In this section, "infrasound" refers to sound at frequencies less than 20 hertz.

(b) The Commissioner shall submit this report to the House and Senate Committees on Natural Resources and Energy, the Senate Committee on Finance, and the Joint Energy Committee.

Sixth: In Sec. 27 (effective dates), after subdivision (5), by inserting a new subdivision (6) to read as follows:

(6) Secs. 12 (municipal and regional plans), 24 (sound standards docket; completion), and 24a (infrasound; report) shall take effect on passage.

Thereupon, pending the question, Shall the bill be amended as moved by the Senators, Bray, Campbell and Kitchel?, Senator Rodgers pursuant to Rule 67 demanded that the *fourth* recommendation of amendment be voted on last.

Thereupon, pending the question, Shall the bill be amended as moved by the Senators, Bray, Campbell and Kitchel in the *first* through *third* and *fifth* through *sixth* recommendations of amendment?, Senator Ashe pursuant to Rule 67 demanded all of the instances be voted on separately.

Thereupon, the question Shall the bill be amended in the *first* recommendation of amendment?, Senator Ashe moved to amend the *first* recommendation of amendment in the second sentence by striking out the following: "or a municipality aggrieved by an act or decision of a municipality under this section"

Thereupon, pending the question, Shall the amendment of Senators Bray, Campbell and Kitchel be amended as recommended by Senator Ashe?, Senator Campbell moved that the Senate recess until 3:45 P.M.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; Consideration Interrupted by Recess

S. 230.

Consideration was resumed on Senate bill entitled:

An act relating to improving the siting of energy projects.

Thereupon, pending the question, Shall the amendment of Senators Bray, Campbell and Kitchel be amended as recommended by Senator Ashe?, Senator Ashe requested and was granted leave to withdraw the recommendation of amendment.

Recess

On motion of Senator Campbell the Senate recessed until 4:00 P.M.

Called to Order

The Senate was called to order by the President.

Consideration Resumed; Bill Amended

S. 230.

Consideration was resumed on Senate bill entitled:

An act relating to improving the siting of energy projects.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Bray, Campbell and Kitchel in the *first* recommendation of amendment?, Senator Riehle moved to amend the *first* recommendation of amendment as follows:

In Sec. 7, 24 V.S.A. § 4352, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read:

(e) Appeal. A regional planning commission aggrieved by an act or decision of the Commissioner of Public Service under this section or a municipality aggrieved by an act or decision of a regional planning commission under this section may appeal to a hearing officer within 30 days of the act or decision. The hearing officer shall be one of five attorneys retained by the Commissioner for this purpose, none of whom shall be an employee of the Department of Public Service. Within 15 days of the filing of the appeal, the parties shall jointly select the hearing officer from among these retained attorneys. The hearing officer shall conduct a de novo hearing on the act or decision under appeal and shall proceed in accordance with the contested case requirements of the Vermont Administrative Procedure Act. The hearing officer shall have authority to decide the appeal and shall issue a final decision within 90 days of the filing of the appeal. A hearing officer shall not conduct an appeal if the officer has a personal or pecuniary interest in the act or decision on appeal.

Which was agreed to.

Thereupon, the *first* recommendation of amendment, as amended, was agreed to.

Thereupon, the *second* recommendation of amendment was agreed to.

Thereupon, the *third* recommendation of amendment was agreed to.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Bray, Campbell and Kitchel in the *fifth* recommendation of amendment?, Senators Bray and MacDonald moved to amend the *fifth* recommendation of amendment by striking out sections 24 and 24a in their entirety and inserting in lieu thereof new Secs. 24 and 24a to read as follows:

Sec. 24. SOUND STANDARDS DOCKET; COMPLETION

(a) On or before October 1, 2016, the Public Service Board (the Board) shall issue a final decision in its pending Docket 8167, Investigation into the potential establishment of standards related to sound levels from the operation of generation, transmission, and distribution equipment by entities subject to Public Service Board jurisdiction (the docket). On issuance, the Board shall provide a copy of this final decision to the House and Senate Committees on Natural Resources and Energy, the Senate Committee on Finance, and the Joint Energy Committee.

(b) Notwithstanding any contrary language in a prior Board order, the scope of this docket and the Board's final decision in the docket shall include the Board's recommendations on each of the following with respect to wind generation facilities and its plan for implementing those recommendations:

(1) The maximum allowable instantaneous audible sound levels for these facilities and the exterior and interior locations at which these levels should apply. In this section, "audible sound" refers to sound at frequencies from 20 hertz through 20 kilohertz.

(2) The maximum allowable average audible sound levels for these facilities, the period over which these levels should be measured, and the exterior and interior locations at which these levels should apply. In reviewing this question, the Board shall consider whether the measurement period should be less than one hour.

(3) The release of sound monitoring data to the public, including the timeliness of the release, the release of raw data, and the availability of the data online. In reviewing this question, the Board shall consider the existence and validity, if any, of assertions that such data is proprietary or confidential.

(4) A minimum setback requirement for each wind turbine, measured from the tower to the nearest property line of the tract on which the turbine is located.

(5) Whether there should be maximum allowable instantaneous or average levels, or both, for infrasound from wind generation and, if so, what they should be and how they should be measured. In this section, "infrasound" refers to sound at frequencies less than 20 hertz.

(c) Before issuing a final decision in the docket, the Board shall provide each of the following:

(1) Notice of the issues described in subsection (b) of this section in the same manner as the Board provided notice of its order opening the docket.

(2) Opportunity for the existing docket parties and members of the public to submit written information and request the conducting of a workshop on these issues. The Board shall hold such a workshop if requested and may hold one or more workshops on these issues on its own initiative.

Sec. 24a. [Deleted.]

Which was agreed to.

Thereupon, the *fifth* recommendation of amendment was agreed to on a division of the Senate, Yeas 18, Nay 8.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Bray, Campbell and Kitchel in the *sixth* recommendation of amendment?, Senators Bray and MacDonald moved to amend the *sixth* recommendation of amendment in Sec. 27 (effective dates), by striking out subdivision (6) in its entirety and inserting in lieu thereof a new subdivision (6) to read as follows:

(6) Secs. 12 (municipal and regional plans) and 24 (sound standards docket; completion) shall take effect on passage.

Which was agreed to.

Thereupon, the *sixth* recommendation of amendment was agreed to.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Bray, Campbell and Kitchel in the *fourth* recommendation of amendment?, Senator Rodgers moved to amend the *fourth* recommendation of amendment as follows:

In Sec. 23e, 30 V.S.A. § 248(y), in the first sentence, after the following: "each wind generation facility" by inserting the following: exceeding 200 feet in height

Which was agreed to.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Bray, Campbell and Kitchel in the *fourth*

recommendation of amendment?, Senator Campbell moved to amend the *fourth* recommendation of amendment in Sec. 23e. 30 V.S.A. § 248(y) by striking out the last sentence in its entirety.

Thereupon, pending the question, Shall the *fourth* recommendation of amendment by Senators Bray, Campbell and Kitchel be amended as recommended by Senator Campbell?, Senator Campbell requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators Bray, Campbell and Kitchel in the *fourth* recommendation of amendment?, Senator Ashe moved to amend the *fourth* recommendation of amendment in Sec. 23e. 30 V.S.A. § 248(y) by striking out the last sentence in its entirety.

Which was agreed to on a division of the Senate, Yeas 19, Nays 7.

Thereupon, the question, Shall the bill be amended as recommended by Senators Bray, Campbell and Kitchel, as amended, in the *fourth* recommendation of amendment was disagreed to on a roll call, Yeas 8, Nays 18.

Senator Baruth having demanded the yeas and nays, they were taken and are as follows:

Roll Call

Those Senators who voted in the affirmative were: Benning, Campbell, Collamore, Degree, Flory, Kitchel, Mullin, Rodgers.

Those Senators who voted in the negative were: Ashe, Ayer, Balint, Baruth, Bray, Campion, Cummings, Doyle, Lyons, MacDonald, Mazza, Nitka, Pollina, Riehle, Sirotkin, Westman, White, Zuckerman.

Those Senators absent and not voting were: McAllister (suspended), McCormack, Sears, Starr.

Thereupon, pending third reading of the bill, Senator Mullin moved to amend the bill in Sec. 11b, planning support, by inserting a new subsection (d) to read as follows:

(d) For three fiscal years commencing on July 1, 2016, the Public Service Board (the Board) shall assess a fee on applications filed under 30 V.S.A. § 248, except for applications for electric generation facilities of 15 kilowatts or less.

(1) This fee shall be in addition to the fee assessed on such applications pursuant to 30 V.S.A. § 248b.

(2) Each fiscal year, the Commissioner of Public Service shall determine the amount of this additional fee, calculated in a manner to raise a total of $300,000.00 annually.

(3) The applicant shall pay this additional fee into the State Treasury at the time the application for a certificate of public good under 30 V.S.A. § 248 is filed with the Board. The fee shall be credited to a special fund that shall be established and managed pursuant to 32 V.S.A. chapter 7, subchapter 5.

(4) The amounts in the fund created under subdivision (3) of this subsection shall be used during fiscal years 2018 and 2019 by the Commissioner of Public Service, in consultation with the Commissioner of Housing and Community Development, solely for disbursements to municipalities and regional planning commissions for one or more of the purposes listed in subdivisions (a)(1)–(4) of this section.

Which was disagreed to on a division of the Senate Yeas 10, Nays 16.

Thereupon, pending third reading of the bill, Senators Bray and Campion moved to amend the bill as follows:

First: In Sec. 13, 30 V.S.A. § 8002(30), after subparagraph (F), by inserting two new subparagraphs (G) and (H) to read as follows:

(G) A site listed on the National Priorities List (NPL) established under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. chapter 103, if the U.S. Environmental Protection Agency or the Agency of Natural Resources confirms each of the following:

(i) The site is listed on the NPL.

(ii) Development of the plant on the site will not compromise or interfere with remedial action on the site.

(iii) The site is suitable for development of the plant.

(H) A new hydroelectric generation facility at a dam in existence as of January 1, 2016 or a hydroelectric generation facility that was in existence but not in service for a period of at least 10 years prior to January 1, 2016 and that will be redeveloped for electric generation, if the facility has received approval or a grant of exemption from the U.S. Federal Energy Regulatory Commission.

And by redesignating the existing subgraph (G) to be subdivision (I)

Second: In Sec. 17, 30 V.S.A. § 8010, after the final ellipsis, by inserting a new subsection (e) to read as follows:

(e) This section does not confer authority to require a hydroelectric generation plant that is subject to licensing jurisdiction under the Federal

Power Act, 16 U.S.C. chapter 12, subchapter 1, to obtain a certificate of public good under section 248 of this title.

Third: After Sec. 17, by inserting a new section to be numbered Sec. 17a to read as follows:

Sec. 17a. 30 V.S.A. § 248(a)(2) is amended to read:

(2) Except for the replacement of existing facilities with equivalent facilities in the usual course of business, and except for electric generation facilities that are operated solely for on-site electricity consumption by the owner of those facilities and for hydroelectric generation facilities subject to licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12, subchapter 1:

(A) no company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may begin site preparation for or construction of an electric generation facility or electric transmission facility within the State which is designed for immediate or eventual operation at any voltage; and

(B) no such company may exercise the right of eminent domain in connection with site preparation for or construction of any such transmission or generation facility, unless the Public Service Board first finds that the same will promote the general good of the State and issues a certificate to that effect.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators Sirotkin, Ashe, Ayer, Bray, Lyons, MacDonald, and Westman moved to amend the bill by striking out Secs. 18 and 19 in their entirety and inserting in lieu thereof three new sections to be numbered Secs. 18, 18a, and 19 to read as follows:

Sec. 18. 30 V.S.A. § 3 is amended to read:

§ 3. PUBLIC SERVICE BOARD

(a) The ~~public service board~~ Public Service Board shall consist of a ~~chairperson~~ chair and two members. The ~~chairperson~~ Chair and each member shall not be required to be admitted to the practice of law in this ~~state~~ State.

* * *

(g) The ~~chairperson~~ Chair shall have general charge of the offices and employees of the ~~board~~ Board.

(h) The Board shall employ a Public Assistance Officer (PAO) in accordance with this subsection.

(1) The PAO shall facilitate citizen participation in and provide guidance to and answer questions from parties and members of the public on all matters under this title concerning the siting and construction of facilities in the State that generate or transmit electricity, constitute a meteorological station as defined in section 246 of this title, or constitute a natural gas facility as defined in subdivision 248(a)(3) of this title. As used in this section:

(A) "Contested case" has the same meaning as in 3 V.S.A. § 801.

(B) "Matter" means any proceeding before or by the Board, including an application for a certificate of public good, a petition for condemnation, rulemaking, and the issuance of guidance or procedures.

(2) Guidance and information to be provided by the PAO shall include the following:

(A) An explanation of the proceeding, including its purpose; its type, such as rulemaking or contested case; and the restrictions or lack of restrictions applicable to the type of proceeding, such as whether ex parte communications are prohibited.

(B) Answers to procedural questions and direction to the statutes and rules applicable to the proceeding.

(C) How to participate in the proceeding including, if necessary for participation, how to file to a motion to intervene and how to submit prefiled testimony. The Board shall create forms and templates for motions to intervene, prefiled testimony, and other types of documents commonly filed with the Board, which the PAO shall provide to a person on request. The Board shall post these forms and templates on the Board's website.

(D) The responsibilities of intervenors and other parties.

(E) The status of the proceeding. Examples of a proceeding's status include: a petition has been filed; the proceeding awaits scheduling a prehearing conference or hearing; parties are conducting discovery or submitting prefiled testimony; hearings are concluded and parties are preparing briefs; and the proceeding is under submission to the Board and awaits a decision. For each proceeding in which the next action constitutes the issuance of an order, decision, or proposal for decision by the Board or a hearing officer, the Chair or assigned hearing officer shall provide the PAO with an expected date of issuance and the PAO shall provide this expected date to requesting parties or members of the public.

(3) With respect to citizens representing themselves in proceedings within the scope of subdivision (1) of this subsection, the PAO shall:

(A) Provide neutral advice and assistance on process and procedures.

(B) Be available for in-person meetings.

(C) Assist them in obtaining access to and use of all files, records, and data of the Board and the Department of Public Service that would be available to an attorney representing a party in the proceeding. The PAO shall have the right to such access and use.

(4) The PAO shall conduct educational programs and produce educational materials to facilitate citizen participation in proceedings within the scope of subdivision (1) of this subsection.

(5) For each proceeding within the scope of subdivision (1) of this subsection, the Board shall post, on its website, electronic copies of all filings and submissions to the Board and all orders of the Board.

(6) The Board shall adopt rules or procedures to ensure that the communications of the PAO with the Board's members and other employees concerning contested cases do not contravene the requirements of the Administrative Procedure Act applicable to such cases.

(7) The PAO shall have a duty to provide requesting parties and members of the public with information that is accurate to the best of the PAO's ability. The Board and its other employees shall have a duty to transmit accurate information to the PAO. However, the Board and any assigned hearing officer shall not be bound by statements of the PAO.

(8) The PAO shall not be an advocate for any person before the Board and shall not have a duty to assist a person in the actual formation of the person's substantive position or arguments before the Board or the actions necessary to advance the person's position or arguments such as the actual preparation of motions, memoranda, or prefiled testimony.

(9) The Board may assign secondary duties to the PAO that do not conflict with the PAO's execution of his or her duties under this subsection.

Sec. 18a. PUBLIC ASSISTANCE OFFICER; REPORT

On or before January 1, 2018, the Public Assistance Officer (PAO) shall submit a written report to the House and Senate Committees on Natural Resources and Energy and the Senate Committee on Finance detailing the implementation of Sec. 18 of this act, including the number of persons assisted and the types of assistance rendered, the PAO's evaluation of the impact of this implementation on the ability of the persons assisted to participate effectively in Board proceedings, and the PAO's recommendations for future action to improve the ease of citizen participation in Board proceedings.

Sec. 19. POSITION; APPROPRIATION

The following classified position is created in the Public Service Board—one limited service, full-time Public Assistance Officer—for the purpose of Sec. 18 of this act. The position shall exist for two years following the date on which the Officer commences employment or until July 1, 2018, whichever is later. There is appropriated to the Public Service Board for fiscal year 2017 from the special fund described in 30 V.S.A. § 22 the amount of $100,000.00 for the purpose of this position.

Which was agreed to.

Thereupon, pending third reading of the bill, Senators White and Balint moved to amend the bill after Sec. 26b, by inserting a Sec. 26c to read:

Sec. 26c. DAMS; CONNECTICUT AND DEERFIELD RIVERS; REVIEW OF POTENTIAL PURCHASE; RECOMMENDATION

The Commissioner of Public Service shall analyze the potential purchase of hydroelectric dams and related assets on the Connecticut and Deerfield Rivers and submit a written recommendation on whether to purchase some or all those dams and assets to the Governor, the Joint Energy Committee, the House Committee on Corrections and Institutions, the Senate Committees on Finance and on Institutions, and the House and Senate Committees on Government Operations and on Natural Resources and Energy. The written recommendation shall include the Commissioner's analysis of the potential purchase and rationale for the course of action recommended. The Commissioner shall submit this recommendation on or before May 15, 2016.

Thereupon, pending the question, Shall the bill be amended as recommended by Senators White and Balint?, Senator White requested and was granted leave to withdraw the recommendation of amendment.

Thereupon, pending third reading of the bill, Senators Degree and Rodgers moved to amend the bill in Sec. 12. 30 V.S.A. § 248(b), by striking out subparagraph (C) and inserting in lieu thereof a new subparagraph (C) to read as follows:

(C) The Board shall apply the land conservation measures and specific policies contained in a duly adopted municipal or regional plan to an application for an in-state electric generation facility in accordance with their terms.

Which was disagreed to on a roll call, Yeas 6, Nays 19.

Senator Degree having demanded the yeas and nays, they were taken and are as follows: